

DECLARATION OF CONDOMINIUM OF
HERON POINTE OF DESOTO COUNTY CONDOMINIUM ASSOCIATION, INC.

POVIA-BALLANTINE CORPORATION, a Florida corporation, herein called "Developer", on behalf of itself, its successors, grantees and assigns, to its grantees and assigns and their heirs, successors and assigns, originally prepared this Declaration of Condominium.

1. SUBMISSION TO CONDOMINIUM - The Developer submitted to the condominium form of ownership, the lands located in DeSoto County, Florida, all improvements constructed upon said lands as well as all easements including, but not limited to, utility easements, sewage and drainage easements and ingress and egress serving this Condominium. All of the foregoing specifically described in the Exhibits to the Condominium, as amended.

2. HERON POINTE was developed as a condominium. NO TIME SHARE ESTATES ARE ALLOWED.

3. NAME - ASSOCIATION - The name of the Condominium Association is Heron Pointe of DeSoto County Condominium Association Inc. This Association is incorporated as a non-profit Florida corporation.

4. DEFINITIONS - The terms used herein shall have the meanings stated in the Condominium Act (Florida Statutes, Chapter 718) and as follows unless the context otherwise requires.

A. DEVELOPER - means POVIA-BALLANTINE CORPORATION, a Florida corporation.

B. INSTITUTIONAL MORTGAGEE - means the owner and holder of a mortgage encumbering a condominium unit, which owner and holder of said mortgage is either a bank, or life insurance company, or a federal or state savings and loan association, or a mortgage or real estate investment trust, or a pension or profit sharing plan, or a credit union, or a Massachusetts business trust, or an agency of the United States government, or an insurance company, or the Federal National Mortgage Association, or a lender generally recognized in the community as an institutional lender.

C. UNIT - A part of the Condominium property which is subject to exclusive ownership.

D. UNIT OWNER - The owner of a Condominium parcel.

E. UNIT NUMBER - The letter, number or combination thereof which is designated upon the survey plans and which is used as the identification of a unit.

F. ASSESSMENT - Means a share of the funds required for the payment of common expenses which from time to time is assessed against the unit owner.

G. ASSOCIATION - The corporation responsible for the operation of the condominium. The Articles of Incorporation for the Association are found in Exhibit B to this Declaration.

H. BOARD OF ADMINISTRATION - Means the Board of Directors responsible for administration of the Association.

I. COMMON ELEMENTS - The portions of the condominium property not included in the units as defined in Florida Statute 718.108, including:

(.1) The land.

(.2) All parts of the improvements which are not included within the units.

(.3) The mandatory membership in LAKE POOKIEHATCHEE

ASSOCIATION, INC., and its appurtenant undivided percentage interest in the property of said Association.

(.4) All easements as are reflected in Exhibit B A hereto and easements as are contemplated hereunder.

(.5) Installations for the furnishing of services to more than one unit or to the common elements, such as electricity, gas, water and sewer.

(.6) Personal property - tangible personal property may be purchased, sold, leased, replaced and otherwise dealt with by the Association, through its Board of Directors, on behalf of the members of the Association, without the necessity of any joinder by the members.

J. LIMITED COMMON ELEMENTS - Means and includes those portions of the common elements which are reserved for the use of a certain unit or units to the exclusion of other units.

K. COMMON EXPENSES - Common expenses are those expenses for which all Unit Owners are liable to the Association, including but not limited to, expenses of administration, maintenance, repair and replacement of the common elements and all other expenses declared to be common expenses either by this Declaration, the Articles of Incorporation, the Bylaws or by the Board of Directors. Common Expenses include, but are not limited to, the cost of hazard and public liability insurance, pool service, janitor service, accounting and legal fees, wages and fees for management services and adequate reserves.

The expenses of bulk cable or master antenna television, and bulk interior and exterior pest control, are specifically considered a common expense, if so designated by the Board.

Common expenses also include reasonable include reasonable insurance for directors and officers, road maintenance and operation expenses, and security services, which are reasonably related to the general benefit of the Unit Owners even if such expenses do not attache to the Common Elements or property of the condominium.

L. COMMON SURPLUS - Means the excess of all receipts of the Association including but not limited to assessments, rents, profits and revenues on account of the common elements over the amount of the common expenses.

M. PERSON - Means an individual, corporation, trustee, or other legal entity capable of holding title to real property.

N. SINGULAR, PLURAL, GENDER - Whenever the context so permits, the use of the plural shall include the singular, the singular the plural, and the use of any gender shall be deemed to include all genders.

O. CONDOMINIUM DOCUMENTS - Means this Declaration; Surveyor's Plat, copies of which are attached hereto as Exhibit "A"; Articles of Incorporation of Heron Pointe of DeSoto County Condominium Association, Inc. attached as Exhibit "B"; Bylaws attached hereto as Exhibit "C"; Rules and Regulations attached as Exhibit "D". The Rules and Regulations need not (but may) be recorded in the County Public Records in order to be valid.

P. CONDOMINIUM PARCEL - Means a unit together with the undivided share in the common elements which is appurtenant to the unit.

Q. CONDOMINIUM PROPERTY - Means the lands and personal property

subject to condominium ownership, whether or not contiguous and all improvements thereon and all easements and rights appurtenant thereto, including membership in LAKE POOKIEHATCHEE ASSOCIATION, INC.

R. OPERATION - Means and includes the administration and management of the condominium property.

5. UNITS SHALL BE CONSTITUTED AS FOLLOWS:

A. REAL PROPERTY - Each unit, together with space within it, and together with all appurtenances thereto, for all purposes, constitute a separate parcel of real property, which may be owned in fee simple and which may be conveyed, transferred and encumbered in the same manner as any other parcel of real property, independently of all other parts of the property, subject only to the provisions of this Declaration and applicable laws.

B. BOUNDARIES - Each unit shall be bounded as to both horizontal and vertical boundaries as below defined, whether the same exist now or are created by construction, settlement or movement of the building, or permissible repairs, reconstruction or alterations.

Said boundaries are intended to be as follows and shall be determined in the following manner:

(.1) HORIZONTAL BOUNDARIES: The upper and lower boundaries of the unites shall be:

(i) UPPER BOUNDARY - The underside of the finished undecorated ceiling of the unit, extended to meet the vertical boundaries.

(ii) LOWER BOUNDARY - The upperside of the finished undecorated surface of the floor of the unit, extended to meet the vertical boundaries.

(.2) VERTICAL BOUNDARIES - The vertical boundaries shall be the

interior undecorated surfaces of the perimeter walls of the unit as shown on the surveyor plans and the interior surfaces of the unit's windows and doors that abut the exterior of the buildings or common areas.

C. EXCLUSIVE USE - Each unit owner shall have the exclusive use of his unit.

D. APPURTENANCES - The ownership of each unit shall include, and there shall pass as appurtenances thereto whether or not separately described, all of the right, title and interest of a unit owner in the condominium property which shall include but not limited to:

(.1) COMMON ELEMENTS - An undivided share of the common elements as defined in Florida Statute 718.108.

(.2) LIMITED COMMON ELEMENTS - The exclusive use (or use in common with one or more other designated units) of the following limited common elements that may exist:

(i) The screened porch and front open porch appurtenant to the unit.

(ii) The parking space or spaces assigned to the unit by the the Association.

(.3) ASSOCIATION MEMBERSHIP and an undivided share in the common surplus and property, real and personal, held by the Association.

E. EASEMENT TO AIR SPACE - An exclusive easement for the use of the air space occupied by the unit as it exists at any particular time and as the unit may be lawfully altered or reconstructed from time to time, which easement shall be terminated automatically in any air space which is vacated from time to time.

F. EASEMENTS - The following non-exclusive easements from the Developer to each unit owner, to the Association and its employees and hired contractors, to utility companies (public or private), unit owners families in residence, guests, invitees and to governmental and emergency services are hereby granted and created.

(.1) INGRESS AND EGRESS - Easements over the common elements for ingress and egress.

(.2) MAINTENANCE, REPAIR AND REPLACEMENT - Easements through the units and common elements for maintenance, repair and replacements. Such access is to be only during reasonable hours except that excess may only be had at any time in case of emergency.

(.3) UTILITIES - Easements through the common elements and units for conduits, ducts, plumbing wiring and other facilities for the furnishing of services to other units and the common elements.

(.4) NON-EXCLUSIVE EASEMENT FOR SURFACE DRAINAGE - A non-exclusive easement for the sole purpose of permitting surface drainage from the condominium property into Lake Pookiehatchee.

(.5) Emergency, regulatory, law enforcement and other public services in the lawful performance of their duties upon the condominium property.

(.6) LAKE USE AND ENJOYMENT - A non-exclusive easement to each unit owner, his family, tenants, guests and invitees for ingress and egress and regress to and from, and for use and enjoyment of, Lake Pookiehatchee, which is adjacent to the condominium and is owned by LAKE POOKIEHATCHEE ASSOCIATION, INC., a non-profit corporation, of which

HERON POINTE OF DESOTO COUNTY CONDOMINIUM ASSOCIATION, INC. is a mandatory member. The use and enjoyment of said lake by the unit owners is subject to observance and adherence to all Rules, Regulations, Covenants, Conditions and Restrictions pertaining to said Lake and its Association.

(.7) RECIPROCAL EASEMENTS - In the event Developer should develop, at any time hereafter, any other real property surrounding Lake Pookiehatchee, into condominium or other multi-family residential projects, then Developer hereby reserves the absolute right to grant to owners therein easements of ingress, egress and regress for both pedestrian and vehicular traffic over and across the sidewalks and drive areas of the common elements of HERON POINTE; provided, however, any such grant to any such owners in any and all such other projects shall be deemed to be a reciprocal grant to the owners of HERON POINTE of an easement of the same scope and for the same purposes over and across like common elements of such other projects.

G. MAINTENANCE - The responsibility for the maintenance of a unit shall be as follows:

(.1) BY THE ASSOCIATION - The association shall maintain, repair, and replace at the Association's expense:

(i) Such portions of the unit as contribute to the support of the building including but not limited to the perimeter walls, columns, and roofs. Also wiring, piping, duct work and other mechanical or electrical or other installations or equipment serving the common areas or other units.

(ii) Provided that if the maintenance, repair, and replacement of

any of the above shall be made necessary because of negligence, act or omission of a unit owner, his family, lessees, invitees and guests, in that event, the work shall be done by the Association at the expense of the unit owner; and the cost shall be secured as an assessment.

(iii) All incidental damage caused to a unit by work done or ordered by the Association shall be promptly repaired by and at the expense of the Association.

(iv) The Association shall operate, maintain and repair all water management facilities which are not to be operated, maintained and repaired by the unit owners pursuant to any other provision of this Declaration, and pursuant to this Declaration shall be the fee owner thereof.

(.2) BY THE UNIT OWNER - The responsibility of the unit owner shall be as follows:

(i) To maintain, repair and replace at his expense, all portions of the unit except the portions to be maintained, repaired and replaced by the Association. The unit owner's responsibility specifically includes windows, cabinets, counters, floor and wall coverings, window and balcony glass, doors, screens and associated hardware, appliances, fixtures, switches, fan motors, furnace and air-conditioner with related components, wiring, piping and duct work serving only that particular unit which shall be considered limited common elements to the extent these components are contained within the boundaries of the unit.

(ii) Not to paint or otherwise decorate or change the appearance of any portion of the building not within the interior walls of the unit or which is visible from the exterior, unless stated otherwise in these documents or the written consent of the Association is obtained in advance.

(iii) A unit owner will be held responsible and assessed for damages, loss and/or expenses incurred by HERON POINTE OF DESOTO COUNTY CONDOMINIUM ASSOCIATION, INC. as a result of any violation of the Rules and Regulations of HERON POINTE OF DESOTO COUNTY CONDOMINIUM ASSOCIATION, INC. and/or any carelessness or negligent act by the owner, their guests or tenants which causes damage to any unit, common area and/or any property or monetary loss to the Association which will include the monetary loss from excessive water loss due to leaking faucets or toilets within the unit. Also, failure to keep the same in good working condition or failure to turn off the water supply at the outside shut-off valve and lock the handle when the unit is unoccupied for seven (7) consecutive days.

(iv) Pursuant to the requirement to maintain common elements, unit owners must provide the Association with a key to their unit that is compatible with the Association master key.

H. ALTERATION AND IMPROVEMENT

(.1) No owner shall make any alterations in the portions of the improvements which are to be maintained by the Association or remove any portion thereof or make additions thereto, or do any work which would jeopardize the safety or soundness of the building, or impair any easements.

(.2) A written request must be submitted to the Board of Directors and written permission obtained and approved by the Association before any alterations are made to limited common elements.

I. COMMON ELEMENTS

(1) The common elements shall be owned by the unit owners in equal undivided shares.

(2) No action for partition of the common elements shall lie.

(3) The maintenance and operation of the common elements shall be the responsibility of the Association which shall not, however, prohibit management contracts.

(4) Each unit owner and the Association shall be entitled to use the common elements in accordance with the purposes for which they were intended, but no such use shall hinder or encroach upon the lawful rights of owners of other units.

(5) Enlargement or material alteration of or substantial additions to the common elements may be effectuated only by a vote of the majority of the membership.

6. FISCAL MANAGEMENT - The fiscal management of the condominium including budget, fiscal year, assessments, lien for the collection of assessments, and accounts shall be as set forth in the By-Laws.

7. ASSOCIATION - The administration of the condominium by the Board of Directors and its powers and duties shall be as set forth in the By-Laws.

8. INSURANCE - The insurance which shall be carried upon the Condominium property, including the Units, Common Elements, and Association Property shall be governed by the following provisions:

A. AUTHORITY TO PURCHASE - All insurance policies (except as hereinafter allowed) shall be purchased by the Association, for itself and as agent for the owners and their mortgagees as their interests may appear.

B. COVERAGE

(.1) CASUALTY- Except as otherwise provided herein, the Association shall obtain and maintain fire, wind, general casualty, flood and extended coverage insurance with a responsible insurance company, or through alternate sources as may be available, including Association Property, the Common Elements, the Units, and the personal property of the Association, for the full replacement or insurable value thereof, less a commercially reasonable deductible, provided the Board may exclude foundation and excavation costs at its discretion. Notwithstanding the foregoing requirement, the Association, through its Board of Directors, will have fulfilled its duty to obtain insurance coverage if it obtains and maintains insurance coverage as may be available from time to time given market and economic conditions, provided such coverage shall always meet the minimum level of adequate coverage required by Section 718.111 (11), Florida Statutes (2004), as the same may be amended or renumbered from time to time. The original policy of insurance shall be held by the Association and mortgagees shall be furnished, upon request, mortgage endorsements covering their respective interests. The word "Building" or "Insurable Improvement" in every hazard policy issued to protect a condominium building, does not include Unit floor, wall, or ceiling coverings; electrical fixtures; appliances; air conditioner or heating equipment; water heaters; water filters; built-in cabinets or counter tops; window treatments, including curtains, blinds, drapes, hardware and similar window treatment components; replacements of any of the foregoing which are located within the Unit boundaries; or any other item, personal property, fixture, appliance or equipment permitted to be excluded from the condominium's insurance policy pursuant to Florida Statutes, Section 718.111(11), as same may be amended or renumbered from time to time. The Unit

Owners shall also be responsible to insure any portion of the Condominium Property which may be removed from Association insurance responsibilities by virtue of future amendments to Section 718.111(11), Florida Statutes (2003).

(.2) LIABILITY INSURANCE - The Association shall obtain and maintain liability insurance covering all of the Common Elements and Association Property and insuring the Association and the Unit Owners as their interests may appear in such amount as the Board of Directors may deem appropriate. The Board of Directors shall have authority to compromise and settle all claims against the Association or upon insurance policies held by the Association. The Unit Owners shall have no personal liability on such claims, except as may be otherwise provided by law, and nothing herein contained shall in any way be construed as imposing upon the Association a duty to assess Unit Owners for the purpose of raising sufficient funds to discharge any liability in excess of insurance coverage. Each Unit Owner will be responsible for procuring and maintaining liability insurance covering losses which may occur in and about the Owner's Unit, and such other insurance as the Owner may deem appropriate.

(.3) WORKER'S COMPENSATION - Such worker's compensation coverage as may be required by law, or deemed advisable by the Board.

(.4) OTHER INSURANCE - Such other insurance as the Board of Directors may from time to time deem to be necessary, including but not limited to Errors and Omissions Officer and Directors Liability insurance coverage, flood insurance, and insurance for the benefit of its employees.

C. DEDUCTIBLE AND OTHER INSURANCE FEATURES - The Board of Directors shall establish the amount of the deductible under the insurance policies, and other features, as

they deem desirable and financially expedient, in the exercise of their business judgement.

D. PREMIUMS - Premiums upon insurance policies by the Association shall be paid by the Association as a common expense.

E. INSURANCE SHARES OR PROCEEDS - Insurance proceeds of policies purchased by the Association covering property losses shall be paid to the Association, and all policies and endorsements thereon shall be deposited with the Association. The duty of the Association shall be to hold and disburse the same for the purposes stated herein for the benefit of the Unit Owners and their mortgagees in the following shares:

(.1) COMMON ELEMENTS - PROCEEDS ON ACCOUNT OF DAMAGE TO COMMON ELEMENTS: An undivided share for each Unit Owner, such share being the same as the undivided share in the Common Expenses appurtenant to the Unit.

(.2) UNIT - PROCEEDS ON ACCOUNT OF DAMAGE TO UNITS SHALL BE HELD IN THE FOLLOWING UNDIVIDED SHARES:

(i) WHEN THE CONDOMINIUM BUILDING IS TO BE RESTORED: For the Owners of the damaged Units in proportion to the costs of repairing the damage suffered by each Unit Owner, which cost shall be determined by the Association.

(ii) WHEN THE CONDOMINIUM BUILDING IS NOT TO BE RESTORED: An undivided share for each Unit Owner, such share being the same as the undivided share in the Common Expenses appurtenant to the Unit.

(.3) MORTGAGES - In the event a mortgage endorsement has been issued as to a

Unit, the share of that Unit Owner shall be held in trust for the mortgagee and the Unit owner as their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right or have applied to the reduction of a mortgage debt any insurance proceeds, except those proceeds paid to the Unit Owner and mortgagee, pursuant to the provisions of the Declaration.

F. DISTRIBUTION OF PROCEEDS - Proceeds of insurance policies received by the Association shall be distributed in the following manner:

(.1) RECONSTRUCTION OR REPAIR - If the damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds shall be paid to defray the cost thereof as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial Owners, remittances to Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any Unit and may be enforced by such mortgagee.

(.2) FAILURE TO RECONSTRUCT OR REPAIR - If it is determined in the manner elsewhere provide that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to beneficial Owners, remittances to Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by the mortgagee.

G. ASSOCIATION AS AGENT - The Association is irrevocably appointed agent for each Unit Owner and for each Owner of a mortgagee or other lien upon any Unit and for each Owner of any other interest in the Condominium Property or any property in which the

Association owns an interest, to adjust all claims arising under insurance policies by the Association, and to execute and deliver releases upon payment of such claim.

9. RECONSTRUCTION OR REPAIR OF CASUALTY DAMAGE: If any part of the common elements or units shall be damaged or destroyed by casualty, the same shall be repaired or replaced unless such damage rendered seventy-five (75%) percent or more of the units untenable, and seventy-five (75%) percent of the owners at a meeting called and held within one-hundred twenty (120) days of the casualty or thirty (30) days after the insurance claim is adjusted (whichever comes first), vote against such repair or replacement, in which event the proceeds shall be distributed to the unit owners and their mortgagees, as their interests may appear, and the condominium shall be terminated as provided in Paragraph 14 following.

(.1) ANY SUCH RECONSTRUCTION OR REPAIR shall be substantially in accordance with the original plans and specifications

(.2) CERTIFICATE - The Insurance Trustee may rely upon a certificate of the Association certifying as to whether or not the damaged property is to be reconstructed or repaired. The Association, upon request of the Insurance Trustee, shall deliver such certificate as soon as practical.

(.3) ESTIMATE OF COSTS - Immediately after a casualty causing damage to property for which the Association has the responsibility of maintenance and repair, the Association shall obtain reliable and detailed estimates of the cost to place the damaged property insofar as reasonably possible in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Directors

desire.

(.4) ASSESSMENTS - If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association (including the aforesaid fees and premium, if any) assessments shall be made against the unit owners who own the damaged property in sufficient amounts to provide funds to pay the estimated costs. If at any time during the reconstruction and repair, such funds are insufficient, special assessment shall be made against the unit owners who own the damaged property in sufficient amounts to provide funds for payment of such costs.

(.5) CONSTRUCTION FUNDS - The funds for payment of costs of reconstruction and repair after casualty, which shall consist of proceeds of insurance held by the Insurance Trustee and funds collected by the Association from assessments against unit owners, shall be disbursed in payment of such costs in the following manner:

(i) UNIT OWNER - The portion of insurance proceeds representing damage for which the responsibility of reconstruction and repair lies with the unit owners to such contractors, suppliers and personnel as do the work or supply the materials or services required for such reconstruction or repair, in such amounts and at such times as the unit owner may direct, or if there is a mortgagee endorsement, then to such payees as the unit owner and the first mortgagee jointly direct. Nothing contained herein, however, shall be construed as to limit or modify the responsibility of the unit owner to make such reconstruction or repair.

(ii) ASSOCIATION - Said Insurance Trustee shall make such payments upon the written request of the Association, and by the architect or general contractor in charge of the work, who shall be selected by the Association, setting forth that the sum then

requested either has been paid by the Association or is justly due to the contractors, subcontractors, materialmen, architects, or other persons who have rendered services or furnished materials in connection with the work, giving a brief description of the services and materials and several amounts so paid, or now due and that the cost as estimated by the person signing such certificate, does not exceed the remainder of the construction funds after the payment of the sum so disbursed.

(iii) SURPLUS - It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds; and, if there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be distributed jointly to the beneficial owners of the funds, who are the unit owners and their mortgagees.

(6) INSURANCE ADJUSTMENTS - Each unit owner shall be deemed to have delegated to the Board of Directors his right to adjust with insurance companies all losses under policies purchased by the Association except in any case where the responsibility of reconstruction and repair lies with the unit owner, subject to the rights of mortgagees of such unit owners.

10. USE RESTRICTIONS - The use of the property of the condominium shall be in accordance with the Rules and Regulations attached as Exhibit D and the following provisions:

A. LAWFUL USE - All valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction shall be observed. The responsibility of meeting the requirements of governmental bodies which require maintenance, modification or repair upon condominium property shall be the same as the responsibility for the repair and maintenance of

the property concerned as expressed earlier in this Declaration.

B. INTERPRETATION - In interpreting deeds, mortgages, and plans the existing physical boundaries of the unit shall be conclusively presumed to be its boundaries regardless of settling or lateral movement of the buildings and regardless of minor variances between boundaries shown on the plans or in the deed and those of the buildings.

C. REGULATIONS - Reasonable regulations concerning the use of the condominium property may be made and amended from time to time by a majority vote of the Association. Copies of such regulations and amendments thereto shall be posted conspicuously and shall be furnished by the Association to all unit owners. No regulation may discriminate against any group or class of users. No new or amended rule or regulation may be enforced prior to approval by the owners.

11. CONVEYANCE, DISPOSITION, FINANCING - In order to assure a community of congenial residents and thus protect the value of the units, the conveyance, disposal and financing of the units by any owner shall be subject to the following provisions:

A. All leases must specifically be made subject to the condominium documents. No lease may be made for a period of less than four (4) weeks. Only entire units may be leased.

B. LIENS -

(1) PROTECTION OF PROPERTY - All liens, including but not limited to, construction liens, mechanics liens, attorney charging liens and judgement liens, against a unit other than for permitted mortgages, taxes or special assessments, must be

satisfied or otherwise removed by the unit owner within thirty (30) days from the date the lien attaches. All taxes and special assessments upon a unit shall be paid before becoming delinquent.

(.2) NOTICE OF LIEN - An owner shall give notice to the Association of every lien upon his unit other than for permitted mortgages, taxes and special assessments within seven (7) business days after the attaching of the lien.

(.3) NOTICE OF SUIT - An owner shall give notice to the Association of every suit or other proceeding which may affect the title to his unit, such notice to be given within seven (7) business days after the owner receives notice thereof.

C. JUDICIAL SALE - No judicial sale of a unit nor any interest therein shall be valid unless the sale is a public sale with open bidding.

D. UNAUTHORIZED TRANSACTIONS - Any transaction which is not authorized pursuant to the terms of this Declaration shall be void unless subsequently approved by the Association.

12. COMPLIANCE AND DEFAULT - Each owner, as a member of the Association shall be governed by and shall comply with the terms of the condominium documents as they may be amended from time to time.

A. Failure to comply shall be grounds for relief, which relief may include but shall not be limited to an action to recover sums for damages or injunctive relief or both, and which actions may be maintained by the Association or by an aggrieved owner.

B. In any such proceeding the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney fees as may be awarded by the Court.

C. In the event that the grievance is that of an owner or owners against the Board

of Directors or a member thereof, prior to the institution of litigation, written notice in detail of the grievance shall be given the Directors and they shall be allowed a period of twenty (20) days to cure or correct.

D. NO WAIVER OF RIGHTS - The failure of the Association or any owner to enforce any covenant, restriction of other provision of the condominium documents shall not constitute a waiver of the right to do so thereafter as to later infractions.

13. AMENDMENTS - Amendments to any of the condominium documents shall be in accordance with the following:

A. An amendment may be proposed either by the Board of Directors or by any owner and may be considered at any meeting of the owners, regular or special, of which due notice has been given according to the By-Laws, which notice includes notice of the substance of the proposed amendment. Passage shall be evidenced by a certificate executed with the formalities of a deed signed by the President or Vice-President and Secretary of the Association that it has been enacted by the affirmative vote of the required percentage of unit owners (which vote may be evidenced by written approval of owners not present and the separate written joinder of mortgagees where required). An amendment shall include the recording data identifying the Declaration and shall become effective when recorded according to law.

(.1) Provided, however, that no amendment shall be made or valid which shall, in any manner, impair the security of any institutional mortgagee having a mortgage or other lien against any condominium unit.

B. CORRECTORY AMENDMENT - Whenever it shall appear that there is a defect, error or omission in any of the condominium documents, amendment of which will not

materially or adversely affect the property rights of unit owners, it shall be corrected by a majority vote of the Board of Directors.

C. REGULAR AMENDMENTS - An amendment which does not change the configuration or size of any condominium unit in any material fashion, materially alter or modify the appurtenances to such unit, change the proportion or percentage by which the owner of the parcel shares the common expenses and owns the common surplus or materially or adversely affects the property rights of owners may be enacted by a sixty-six and two-thirds (66-2/3%) percent vote.

D. EXTRAORDINARY AMENDMENTS - An amendment which will have the effect of doing any of the things mentioned in "C" above shall require the affirmative vote of all the record owners of the affected units and all record owners of liens thereon and the affirmative vote of the owners of all other units. This section shall be deemed to include enlargement of, material alteration of or substantial additions to the common elements only if the same will have a material adverse effect on the owner's property rights, which shall otherwise be treated as regular amendments. Any vote changing the percentage of ownership of the common elements or haring the common expenses shall be conducted by secret ballot.

14. TERMINATION - The condominium shall be terminated if at, in the following manner:

A. By the agreement of seventy-five percent (75%) of the owners which agreement shall be evidenced by an instrument or instruments executed in the manner for conveyance of land. The termination shall become effective when such agreement has been recorded according to law. Provided, however, that no action for termination of the

condominium shall be effective without the consent of all institutional mortgagees.

B. SHARES OF UNIT OWNERS AFTER TERMINATION - After termination of the condominium, the owners shall own the property as tenants in common in undivided shares and the holders of mortgages and liens against the unit or units formerly owned by such owners shall have mortgages and liens upon the respective undivided shares of the owners. All funds held by the Association except for the reasonable necessary expenses of winding up shall be disbursed to the unit owners. The costs incurred by the Association in connection with a termination shall be a common expense.

C. FOLLOWING TERMINATION - The property may be partitioned and sold upon the application of any owner. Provided, however, that if the Board of Directors following a termination, by unanimous vote, determines to accept an offer for the sale of the property as a whole, each owner shall be bound to execute such deed and other documents reasonably required to affect such sale at such times and in such forms as the Board of Directors directs. In such event, any action for partition or other division of the property shall be held in abeyance pending such sale, and upon the consummation thereof shall be discontinued by all parties hereto.

D. THE MEMBERS OF THE LAST BOARD OF DIRECTORS shall continue to have such powers as in this Declaration are granted, notwithstanding the fact that the Association itself may be dissolved upon termination.

15. MORTGAGEE PROVISIONS -

A. The Association shall maintain a list of mortgagees of record and record owners or liens on the condominium real property.

B. The list of mortgagees or lien holders shall be a part of the records of the Association and shall be open to inspection by all unit owners.

C. The Association shall notify the mortgagee or lien holder of any unpaid assessments due from the unit owner on any condominium unit.

D. In any foreclosure action, the lien of the Association shall be subordinate and inferior to any mortgage lien of record encumbering such unit.

E. If a mortgagee acquires title to a unit through a foreclosure action or by a deed in lieu of foreclosure, that mortgagee shall acquire the unit free of the Association's lien for unpaid assessments. All unpaid assessments then shall become a common expense of the Association.

F. In lieu of foreclosing its lien or in the event of a foreclosure by a mortgagee or deed in lieu of foreclosure to a mortgagee, the Association may bring suit against the defaulting unit owner to recover a money judgement for any sums, charges or assessments required to be paid to the Association by the unit owner without waiving its lien securing payment. The defaulting unit owner shall be required to pay all costs of collection including the Association attorney's fees.

G. The Association is obligated to send mortgagees, if any, a copy of the default notice prior to instituting any action.

H. No amendment to this Declaration shall be effective to change or lessen the rights of any institutional mortgagee. Institutional mortgagee as herein defined shall include and bank, savings and loan association, or recognized lending institution.

I. The liens herein referred to as maintenance assessments or special assessments

to particular units shall be specifically subordinate to the claim of any institutional mortgagee.

J. Where the mortgagee of a first mortgage of record obtains title to a unit by foreclosure or by deed in lieu of foreclosure, such mortgagee and its successors and assigns shall not be liable for such unit's assessments or share of the common expenses which became due prior to acquisition of title unless such share is secured by a claim of lien for assessments recorded prior to the recordation of the subject mortgage.

K. The mortgagee may occupy, lease, sell or otherwise dispose of such unit without the approval of the Association.

16. ENFORCEMENT OF ASSESSMENT LIENS - Liens for assessments may be foreclosed by suit brought in the name of the Association in a like manner as a foreclosure of mortgage on real property. During his occupancy, at the discretion of the court, the foreclosed owner shall be required to pay a reasonable rental and the Association shall be entitled to the appointment of a receiver to collect the same, and the Association shall have all the powers provided in Florida Statute 718.116, including specifically interest at the maximum percent allowed per annum on unpaid assessments and reasonable attorney's fees incident to the collection of such assessment or enforcement of such lien, with or without suit. Any late fees, costs, attorney fees and interest charges will be applied to the lien before any principal payments.

17. MEMBERS - The qualification of members, the manner of their admission and voting by members shall be as follows:

A. ALL OWNERS OF UNITS in the condominium shall be members of the Association, and no other persons or entities shall be entitled to membership.

B. MEMBERSHIP IN THE ASSOCIATION shall be established by the recording

in the Public Records of DeSoto County, Florida, a deed or other instrument establishing a change of record title to a unit in the Condominium and delivery to the Association of a copy of such instrument, the new owner thereby becoming a member of the Association. The membership of the prior owner shall be thereby terminated.

18. INDEMNIFICATION

A. INDEMNITY - The Association shall indemnify any officer, director, or committee member who was or is a party to or is threatened to be made a party to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, or investigative, by reason of the fact that he is or was a director, officer, or committee member of the Association, against expenses (including attorneys' fees and appellate attorneys' fees) , judgements, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, or proceeding, unless

(a) a court of competent jurisdiction finally determines, after appeals have been exhausted or not pursued by the proposed indemnitee, that he did not act in good faith or in a manner he reasonably believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, that he had reasonable cause to believe his conduct was unlawful, and

(b) such court also determines specifically that indemnification should be denied. The termination of any action, suit, or proceeding by judgement, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interest of the Association, and with

respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful. It is the intent of the membership of the Association, by the adoption of this provision, to provide the most comprehensive indemnification possible to their officers, directors, and committee members as permitted by Florida law.

B. DEFENSE - To the extent that a director, officer, or committee member of the Association has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Section A above, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually and reasonably incurred by him in connection herewith.

C. ADVANCES - Expenses incurred in defending a civil or criminal action, suit, or proceeding shall be paid by the Association in advance of the final disposition of such action, suit, or proceeding upon receipt of an undertaking by or on behalf of the affected director, officer, or committee member to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Association as authorized by this Article.

D. MISCELLANEOUS - The indemnification provided by this Section 19 shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any by-law, agreement, vote of members, or otherwise, and shall continue as to a person who has ceased to be a director, officer, committee member and shall inure to the benefit of the heirs and personal representatives of such person.

E. INSURANCE - The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, committee

member, employee, or agent of the Association, or a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against any liability asserted against him and incurred by him in any capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article.

F. AMENDMENT - Anything to the contrary herein notwithstanding, the provisions of this Section 19 may not be amended without the approval in writing of all persons whose interest would be adversely affected by such amendment.

19. APPORTIONMENT OF COMMON EXPENSES AND COMMON SURPLUS AND OWNERSHIP OF COMMON ELEMENTS - The manner in which the apportionment of common expenses and common surplus and the ownership of common elements has been determined is by utilizing a fraction, the numerator of which is one (1) and the denominator of which is the number of all units submitted to condominium ownership.

20. SEVERABILITY - If any provision of this Declaration or Exhibits thereto, as now constituted or as later amended, or any section, sentence, clause, phrase or word, or the application thereof in any circumstance is held invalid, the validity of the remainder and of the application of any such provision, section, sentence, clause, phrase or word in other circumstances shall not be affected thereby.

21. VOTING - Each unit shall have one full vote in all matters.

22. RECREATIONAL FACILITIES:

A. Facilities are a 20' x 40' swimming pool, which has an approximate depth of 3 feet at the shallow end and 6 feet at the deepest point. The swimming pool is heated and has a maximum capacity of 19 people. The swimming pool is surrounded by a 10 foot sun area. A poolside cabana, which contains 2 restrooms, a kitchen, manager's office and storage areas are located next to the pool. There is also an attached canopy. There are 2 bocci courts and 2 shuffleboard courts.

B. The cost of managing, maintaining and operating the recreational facilities, exclusively a part of HERON POINTE, A CONDOMINIUM, shall be that of the Association.

C. Unit owners will further enjoy the non-exclusive use of Lake Pookiehatchee, as provided in Paragraph 5.F.(6) above, in common with all other members of LAKE POOKIEHATCHEE ASSOCIATION, INC. The Lake is and shall be owned, managed, maintained and cared for by that Association. LAKE POOKIEHATCHEE ASSOCIATION, INC. is a non-profit corporation whose membership is limited exclusively to the record owners of title to the real property as described in the Lake Pookiehatchee Association. HERON POINTE OF DESOTO COUNTY CONDOMINIUM ASSOCIATION, INC., by virtue of being the unit owners in Heron Pointe, a condominium project developed and built on said real property with frontage on said Lake, is vested with the membership in LAKE POOKIEHATCHEE ASSOCIATION, INC. That membership shall be a part of the common elements of HERON POINTE A CONDOMINIUM, and the assessments to be levied by LAKE POOKIEHATCHEE

ASSOCIATION, INC. to meet its common expenses upon the Association shall be a part of the budget of this Association. To secure payment of such assessments, LAKE POOKIEHATCHEE ASSOCIATION, INC. is entitled to a lien upon all common elements and units in HERON POINTE.

23. PROPOSAL TO AMEND EXISTING DECLARATION OF CONDOMINIUM - shall contain the full text of the Declaration of Condominium to be amended. Words stricken are deletions; words underlined are additions. If the proposed change is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendment saying "(Substantial rewording of document. See current document for present text)".

24. DOCUMENTS - Owners shall be provided with one (1) set of documents which are to remain with the unit. Additional sets are available at cost.

Declaration approved Mar 29, 2006