

COMMONWEALTH OF THE BAHAMAS

New Providence

THIS DECLARATION OF COVENANTS CONDITION AND RESTRICTIONS is made the 25th day of May A.D. 2005 by AZURA DEVELOPMENT CO. LIMITED a company incorporated in the Commonwealth of The Bahamas and carrying on business therein (hereafter referred to as “the Declarant”) of the one part and WEST WINDS PROPERTY OWNERS ASSOCIATION LIMITED another company incorporated in the said Commonwealth and carrying on business therein (hereinafter referred to as “the Association”) of the other part

WHEREAS

(A) The Declarant and the Association are seised in fee simple in possession free from incumbrances of certain lands within two tracts together comprising 93.58 acres (more or less) situate in the Western District of the Island of New Providence one of the Islands of the said Commonwealth of The Bahamas which said lands have recently been laid out in a Subdivision development of 466 lots for building purposes called and known as “West Winds” according to the plan thereof hereto annexed showing the Subdivision edged in Pink thereon

(B) It is the intention of the Declarant and of the Association that each of the lots I the Subdivision should form a part of an estate to be developed according to a general building scheme and that all lots in the Subdivision shall be held sold and conveyed with the benefit of certain easements and subject to certain covenants conditions and restrictions which are for the purpose of protecting the value and desirability of the Subdivision and which shall run with the real property and be binding on all parties having any right title or interest in the lots within the Subdivision or any part thereof their respective heirs successors in title and assign and shall inure to benefit of each owner thereof as hereinafter set out

(C) The Declarant has incorporated the Association i) for the purpose of owning the sites within the Subdivision comprising the Roadways and the Amenity Areas therein as are shown on the plan edged in Brown and Green respectively ii) for the purposes set out in Section 2 of Article IV hereof and iii) to levy and collect Assessments from owners of lots in the Subdivision to cover the cost of carrying out the purposes of the Association and otherwise as set out in Article IV hereof

(D) One (1) Class A voting Share in the Association shall be issued or transferred to each owner of an assessable property interest (as in Article 1 hereinafter defined) in respect of each assessable property interest owned by him and where any assessable property interest is owned by two or more persons the share to which they are entitled shall be issued to them as joint tenants or tenants in common as they shall specify

(E) The Association has agreed with the Declarant to join herein for the purpose of granting to the Declarant the Power of Attorney set out in Article VII and the development easements as hereinafter defined and otherwise to evidence its agreement with the Declarant to all of the provisions of this Declarant

ARTICLE I

DEFINITIONS

References to Articles, Sections and Schedules shall be to those contained in this Declaration and in and throughout this Declarant (unless the context otherwise admits) the following words and phrases shall have the following meanings:

“this Declaration” shall mean this Declaration and any later amendment or amendments thereto recorded in the Registry

“the Plan” means the Plan annexed hereto and shall include any plan or plans annexed hereafter to any later amendment of this Declaration in the manner contemplated by Sections 3 and 4 of Article VI of this Declaration

“the Subdivision” means the Subdivision shown edged in Pink on the Plan and shall mean and include any land or lands which may at any time hereafter be annexed by the Declarant for addition to and inclusion therein in the manner contemplated by Section 4 of Article VI

“lot” means any lot of land in the Subdivision shown and numbered upon the Plan

“unit” means each and every separate single-family residential accommodation contained within apartment condominium or housing premises (as the case may be) constructed or intended to be constructed on any lot

“Certificate of Occupancy” means that certificate required from the Ministry of Works and Utilities prior to the occupation of any unit constructed on a lot

“completion of construction” means in respect of any unit the beginning of that one of the Association’s fiscal quarters immediately following the earlier of either i) the issue of a Certificate of Occupancy in respect of such unit or ii) the 24 month anniversary of the date of the Association’s approval of the application required to be submitted by an owner to the Association in respect of the intended construction of such unit pursuant to Section 2 of Article V

“an assessable property interest” means:

- i) in the case of any lot referred to in Clause 1 or Clause 7 of the restrictive covenants set out in the First Schedule then, in such case, that lot
- ii) in the case of any lot included and referred to in Clause 2 of the restrictive covenants set out in the First Schedule then, in such case a) prior to the completion of construction of a second unit thereon, that lot but b) after completion of construction of a second unit thereon, then the first unit and the second unit each separately
- iii) in the case of any lot referred to in either Clauses 3 or 4 or 5 or 6 of the restrictive covenants set out in the First Schedule then, in such case a) prior to the completion of construction of a second unit thereon then the first unit and the second unit each separately and c) after completion of construction of each and every additional unit thereon after the second unit, then the first unit and second unit and each and every additional unit, all separately

“the assessment commencement date” means the later of either 1st January 2006 or a) in the case of a lot then the beginning of the Association’s fiscal quarters immediately following the first Conveyance by the Declarant of such lot and b) in the case of a unit comprising an assessable interest, then the beginning of the Association’s fiscal quarters immediately following completion of construction of such unit

“owner” means the person to whom any assessable property interest has been conveyed in fee simple at any time after the date hereof, and where, following the date of this Declaration, any assessable property interest is made the subject of a charge or mortgage then the owner shall be the person having the equity of redemption in the same

“the Runways” means all those pieces parcels or strips of land within the Subdivision shown edged in Brown on the Plan

“the Amenity Areas” means those pieces or parcels of land within the Subdivision shown edged in Green on the Plan

“the Common Areas” means the Roadways and the Amenity Areas together with any real property (including the improvements thereto) owned by the Association

from time to time and or intended by the Declarant for the common use and enjoyment of owners

“Annual Assessments” means such annual assessments as shall be levied on owners by the Association as provided in Article IV

“Special Assessments” means such assessments as may be levied on owners by the Association from time to time for the purposes set out in Section 4 of Article IV

“Assessments” means any and all Annual Assessments and Special Assessments

“the Association’s fiscal quarters” means every three month period commencing the first days of January, April, July and/or October every calendar year after 2005

“the restrictive covenants” means those restrictive covenants conditions and restrictions binding each owner and each lot and every part thereof and for the observance and performance of every owner as set out in the First Schedule

“the utility easements” means the easements to be granted by the Association to each owner as set out in Part I of the Second Schedule

“the access easements” means the easements to be granted by the Association to each owner and his licensees and invitees as set out in Part II of the Second Schedule

“the amenity easements” means the easements to be granted by the Association to each owner and his licensees and invitees as set out in Part III of the Second Schedule

“the owner easements” means the utility easements, the access easements and the amenity easements

“the perimeter lots” means all lots having a rear boundary running on or long or adjoining any part of the outer perimeter of the Subdivision shown edged in Pink on the Plan

“the perimeter strip” means in receipt of the perimeter lot of piece parcel or strip of land of eight feet in width contained within each and every one of the perimeter lots and running parallel to the rear boundary of a perimeter lot

“the lot access easements” means the easements hereby granted by the Declarant to the Association and excepted and reserved by the Declarant unto itself as set out in the Fourth Schedule hereto

“the perimeter easements” means the easements hereby granted by the Declarant to the Association and excepted and reserved by the Declarant unto itself as set out in the Fifth Schedule hereto

“the reserved easements” means all those the lot access easements and the perimeter easements

“utility provider” means any agent, contractor, service provider, or utility corporation (public or private) employed or engaged by the Declarant for the purpose of assisting or facilitating the Declarant in the construction, provision, or installation of any subdivision infrastructure

“Subdivision infrastructure” means i) graded and paved roads running over or along the Roadways ii) recreational facilities on the Amenity Areas iii) landscaping on any of the Common Areas iv) entrance and exit gating on or fencing running vi) drainage, water and or sewerage, cable and/or electrical lines, pipes, services poles, conduits,

systems and/or other facilities passing or running either on, under, over, along or through any of the Common Areas

“the installation of subdivision infrastructure” means any and all site clearing, work, construction, development, trenching and/or installation by the Declarant and/or any utility provider pursuant or ancillary to the installation, construction, provision, inspection and interim repair and maintenance of any and all subdivision infrastructure or otherwise in furtherance or fulfillment of any agreement or obligation by either the Declarant or any of its agents, the Association of any utility provider with either any governmental authority road works, utilities, or services of any nature for the benefit of the Subdivision or any part thereof

“the development easements” means the easements set out in the Third Schedule hereto hereby granted by the Association as owner of the Common Areas to be Declarant and any utility provider for the purpose of the installation of subdivision infrastructure

“the Association’s Amenity Rules and Regulations” means such rules and regulations as may be promulgated by the Association from time to time for the observance of owners for the control and orderly use by owners of the Amenity Areas and recreational facilities thereon

“the Association’s Security Rules and Regulations” means such rules and regulations as may be promulgated by the Association from time to time for the observance of owners to facilitate the Association’s security staff in their verification monitoring and control of traffic entering and exiting the Subdivision and using the Roadways

“resolution of members” means a resolution of members of the Association as defined in the Articles of Association of the Association

“the Board” means the Board of Directors of the Association

“the front boundary of any lot” and/or “front boundary” means in respect of any lot the continuous boundary line of such lot dividing such lot from any part of the Roadways

“the rear boundary of any lot” and/or “the rear boundary” means in respect of any lot that continuous straight outer boundary line of such lot the furthest in distance from the front boundary (except that in the case of corner lots it may be determined from any boundary line dividing such corner lot from the Roadways)

“the side boundaries of any lot” and/or “side boundaries” means in respect of any lot the boundary lines of such lot running between the front boundary and the rear boundary

“the Registry” means the Registry of Records of the Commonwealth of The Bahamas

Words importing the masculine gender shall include the feminine and the neuter and words importing the singular number shall include the plural

References contained in any Agreement for Sale or Conveyance entered into by either or both of the Declarant and/or the Association to any lot or lots by number or numbers shall (unless the context otherwise admits) be deemed to be references to such lot or lots having such position shape boundaries marks and dimensions as are shown on the Plan

ARTICLE II

OWNERS' EASEMENTS

The Association shall join in every Conveyance of a lot from the Declarant to an owner for the purpose of granting the owners' easements to every owner simultaneously with the Conveyance of the lot to him whereafter the owners' easements shall be appurtenant to and shall pass with the title to such lot and every unit comprising an assessable property interest originating out of any part thereof

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1 – Every owner of an assessable property interest shall be a member of the Association and shall be entitled to one (1) Class A voting share in the Association for every individual assessable property interest owned by him. No owner shall assign or transfer any Class A voting share except upon a conveyance mortgage assignment re-conveyance or transfer of the assessable property interest to which such share relates. The owner or his personal representatives will upon any transaction disposition or assent to which he or they are parties or over which he or they have any control involving a change or a contract for a change in the ownership of an assessable property interest ensure that the person becoming or contracting to become the owner of such assessable property interest as a result of such transaction or disposition also becomes the registered holder of the Class voting share relating thereto and further that the owner or his personal representatives will give the Association one (1) month's prior notice in writing of any proposed transaction or assent as aforesaid.

Section 2 – The Association shall have the following Two (2) classes of shares:

Class A voting shares

One (1) Class A voting share shall be issued or transferred (as the case may be) to an owner for each assessable property interest owned by him. The Class A voting share issued by the Association to the first owner of a lot shall be numbered the same as for his lot. Thereafter any additional Class A voting shares issued by the Association in respect of any additional assessable property interest originating out such lot or any part thereof shall be principally numbered and/or designated by the number of such lot save that each such additional Class A voting share that may be issued in respect thereof shall be distinguished from the share issued to the first owner of such lot as well as any share issued to other owners of assessable property interests (if any) originating out of such lot by a letter sub-designation. An owner shall be entitled to one (1) vote for each Class A voting share held by him. In the event there is more than one owner of an assessable property interest the owners thereof shall hold their Class A voting share either as joint tenants or tenants in common but in either case they shall not be entitled to more than one vote with respect to each separate assessable property interest so owned

Class B voting shares

Four hundred and Sixty-six Class B voting shares shall be issued to one or more of the present members of the Board of Directors of the Declarant who shall be entitled to one (1) vote for each Class B voting share held by him or them. Upon the issue of Four Hundred and Sixty-six (466) Class A voting shares the Association shall redeem all of the Class B voting shares for a total consideration of \$1.00 and thereupon cancel such shares.

ARTICLE IV

ASSESSMENTS

Section 1 – Covenant to pay Assessments

Every owner by acceptance of a Conveyance of any assessable property interest (and whether or not it shall be so expressed in such Conveyance) shall be deemed to covenant and agree to pay to the Association Assessments to be established and collected as hereinafter provided.

Section 2 – Purpose of the Association and Annual Assessments

Annual Assessments levied by the Association shall be used by the Association for the following purposes namely:-

- (a) for the maintenance in a state of good repair of any subdivision infrastructure
- (b) to provide sufficient liability insurance for the Association and peril insurance in respect of all or any of the Common Areas and any improvements thereto
- (c) to provide for the street lighting of the Roadways, the entrance to the Subdivision and for lighting in respect of the Amenity Areas
- (d) for the organization and employment of such security personnel and equipment as may be deemed necessary or desirable by the Association for the security of any of the Common Areas and or the owners
- (e) to improve and maintain landscaping, signage, lighting, gating, security facilities and decorative entrance features on any of the Common Areas
- (f) for clean up and general maintenance of the Common Areas
- (g) for the collection disposal or destruction of garbage and rubbish
- (h) for the payment of any utility charges and real property taxes with respect to any property in the ownership of the Association and the payment of legal and accounting fees and all expenses incurred in the management of the Association
- (i) to promulgate publish and enforce the Association's Amenity Rules and Regulations and the Association's Security Rules and Regulations and to enforce the restrictive covenants
- (j) to pursue any purpose (additional to the foregoing) resolved to be in the collective best interest of the health safety and welfare of owners as may in General Meeting of the Association be approved
- (k) to recover from owners the costs incurred by the Association in the carrying out of such functions and in the administration of the Association

Section 3 Initial Annual Assessments and Maximum Annual Assessments

- (a) From 1st January 2006 until the first General Meeting of the Association in 2006, Annual Assessments shall be fixed and charged at a rate of Six Hundred dollars (\$600.00) per assessable property interest per annum
- (b) At the first General Meeting of the Association in 2006 the members shall establish a maximum in respect of Annual Assessments for the 12 month period commencing on the first day of that of the Association's fiscal quarters immediately following the first General Meeting of the Association in 2006. During each 12 month period thereafter the Board shall establish a maximum for Annual Assessments provided nevertheless that i) the maximum for Annual Assessments established by the members at the first General Meeting in 2006 shall not be less

than Six hundred dollars (\$600.00) per assessable property interest per annum ii) in the event that the members fail to conclusively resolve a maximum for Annual Assessments at the conclusion of the first General Meeting of the Association in 2006 the maximum for Annual Assessments for the 12 month period commencing on the first day of that of the Association's fiscal quarters immediately following the first General Meeting of the Association in 2006 shall be deemed to be Six hundred dollars (\$600.00) per assessable property interest per annum and iii) the Board may not increase the maximum for Annual Assessments by more than twenty (20%) percent above the amount of the maximum established for the previous 12 month period without a resolution of members approving such increase.

Section 4 – Special Assessments

In addition to Annual Assessments the Board may with the approval of a resolution of members levy in any year Special Assessments payable by owners and applicable to that year only for the following purposes:

- (a) Defraying in whole or in part the cost of any reconstruction repair or replacement in the nature of a capital improvement made upon the Common Areas or any part thereof or (as regards security fencing or walling) the perimeter strip or any part thereof
- (b) To cover any increased insurance costs or increased real property taxes on any property in the ownership of the Association

Section 5 – Payment of Assessments

After the assessment commencement date Assessment shall become due in respect of an assessable property interest on the first day of each of the Association's fiscal quarters then next ensuing. All Assessments due shall be paid by the owner of each assessable property interest to the Association quarterly in advance on the first day of each of the Association's fiscal quarters following the assessment commencement date PROVIDED ALWAYS i) that nothing contained in this Declaration shall be read or construed to render the Declarant liable (by virtue of either its membership in the Association and or either its inventory of unsold lots or units or otherwise) to pay any Assessments and ii) no charge shall arise in respect of Assessments as regards any lot or unit remaining in the inventory of the Declarant until the commencement date relating thereto

Section 6 – Verification of Assessments

The Association shall upon demand and for a reasonable charge furnish a certificate signed by the Secretary of the Association setting forth whether or not all Assessments on a specified assessable property interest have been paid. A certificate of the Association signed by the Secretary or a Director of the Association and sealed with the Common Seal of the Association verifying the status of any or all Assessments on a specified lot shall be conclusive and binding upon the Association as of the date of its issuance.

Section 7 – Effect of Nonpayment of Assessments: Remedies of the Association

(A) Charge on owner's assessable property interest

If Assessments or any part thereof shall remain unpaid by an owner for the period of thirty (30) days after becoming due and payable (whether formally demanded or not) the same shall become a charge in favor of the Association on that owner's assessable property interest and shall bear interest at the rate of Eighteen dollars per centum (18%) per annum from such date.

(B) Additional Remedies

In the event that Assessments or any part thereof due from an owner to the Association remain unpaid for more than thirty (30) days after becoming payable (whether formally demanded or not) it shall be lawful for the Association at any time thereafter to commence legal proceedings against the owner to recover the Assessments or any part thereof as shall remain unpaid together with costs and, in addition, do any one or more of the following in respect of any assessable property interest owned by such owner:

- (i) To grant the owners' easements to any person becoming seised for an estate in fee simple thereof for a like term
- (ii) To cancel the one (1) Class A voting share of the owner in the Association and to issue one (1) new Class A voting share in the Association as appurtenant to such assessable property interest
- (iii) To suspend the right of such owner to use recreational facilities serving the Amenity Areas for any period during which any charge against such assessable property interest remains delinquent

ARTICLE V**ARCHITECTURAL PLANS TO BE SUBMITTED TO THE ASSOCIATION****Section 1**

For the purpose of this Article V references to "the Association" shall include a committee appointed by the Association for the review of architectural plans (as hereinafter defined)

Section 2 – Owners to submit architectural plans prior to commencing work

Prior to commencing work on any lot or part thereof the owner shall submit a full set of architectural plans elevations and drawings (hereinafter referred to as "architectural plans") to the Association by way of application to the Association for review (hereinafter referred to as "the application") and no site preparation or construction activities shall commence on any lot or any part thereof until such plans have been approved by the Association

Section 3 – Content of architectural plans

Architectural plans shall include plans and specifications showing i) site layout ii) structural design iii) exterior elevations iv) exterior materials and v) colour schemes relating to any buildings, roofing, pools, driveways, landscaping and or other features or proposed construction, improvement, and or installation intended on such lot, as applicable, together with the proposed site on the lot and materials intended in the installation and construction of the necessary parking spaces and or sewage tank or cesspit servicing the same. The Association shall have the right to call for such additional information and/or the submission of sample materials and sample colours from an owner in its discretion in order to complete its review

Section 4 – Approval of architectural plans in sole discretion of the Association

In reviewing architectural plans the Association shall consider the desirability of maintaining a uniform architectural scheme within the Subdivision and may disapprove plans purely on aesthetic considerations, and the Association shall have the sole discretion to make final conclusive and binding determinations on matters

of aesthetic judgement and such determinations shall not be the subject of review so long as made in good faith

Section 5 – Time for Association to consider architectural plans submitted by owner

The Association shall made a determination on each application within sixty (60) days after receipt of a full set of architectural plans from an owner and the receipt of any additional information and/or samples as may be required by the Association and notified to the owner submitting an application for consideration.

Section 6 – Association’s options in approval/partial approval/disapproval of architectural plans

The Association may either i) approve the application with or without conditions or ii) approve a portion of the application and disapprove other portions or iii) disapprove the application

Section 7 – Approval in one case not a precedent for automatic approval in another

The approval of architectural plans containing elements of design and/or construction in any application shall not be considered as a precedent for the automatic approval by the Association of architectural plans containing similar elements later submitted by any other owner in any subsequent application.

Section 8 – Indemnity in favour of Declarant and Association

Neither the Declarant nor the Association nor any of their respective officers directors of committee members shall i) bear any responsibility for ensuring the structural integrity or soundness of approved construction of modifications or compliance with building codes or other governmental requirements ii) be held liable for site conditions drainage or general site work or any defects in any architectural plans reviewed or approved by the Association AND FURTHER nay owner submitting architectural plans for review by the Association shall indemnify and keep the Declarant the Association and all of their respective officers directors and committee members fully and effectively indemnified against any and all actions proceedings claims costs and demands arising in any manner out of any construction or improvement of the lot to which such architectural plans relate.

Section 9 – Association not bound to consider/approve architectural plans submitted by owner in breach of covenant

The Association shall not be bound to consider and shall not be required in any circumstances to approve architectural plans submitted in an application by any owner who is in breach of or (as appears from any architectural plans in any application submitted to the Association) is intending any breach of the restrictive covenants or other provisions of this Declaration remaining unremedied at the time such application is submitted.

ARTICLE VI

GENERAL PROVISIONS

Section 1 – Enforcement

The Declarant the Association or any owner shall have the right to enforce by a proceeding at law or in equity the restrictive covenants and/or all stipulations conditions covenants reservations liens and charges now or hereafter imposed by the provisions of this Declaration, and failure by either the Declarant or the Association or by any owner to enforce any covenant restriction or stipulation herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2 – Severability

Invalidation of any one of the restrictive covenants or provisions herein contained by judgment or an order of the court shall in no way affect any other provisions which shall remain in full force and effect.

Section 3 – Amendment

- i) For as long as the Class B voting shares in the Association remain issued and unredeemed, this Declaration may be only amended by the Declarant and the Associated (each requiring the approval of the other)
- ii) Following the Association's redemption and cancellation of the Class B voting shares, the Association may amend this Declaration without the consent of the Declarant PROVIDED that any proposed amendment under this sub-clause ii) receives prior approval by a resolution of members.
- iii) In any event any proposed amendment to this Declaration shall only take effect on the due execution of an Amending Declaration providing therefor and the lodging of the same for recording in the Registry.

Section 4 – Annexation

- i) For as long as the Class B voting shares in the Association remain unredeemed the Declarant shall have the right in its absolute discretion to annex any additional property or properties to the Subdivision for inclusion as part of the Subdivision and the Association shall use best efforts to facilitate the Declarant should it elect to do so and shall join the Declarant in amending this Declaration in the manner contemplated by sub-clause ii) below
- ii) Annexation of additional property or properties to the Subdivision shall take effect from the day of the recording in the Registry of an amended Declaration as contemplated in sub-clause i) of Section 3 of this Article VI, whereupon i) such additional property or properties and all lots Roadways Amenity Areas and Common Areas therein shall, to all intents and purposes become, be included in and form part of the Subdivision and ii) the terms and provisions of this Declaration (as amended) shall become binding on the Declarant the Association and every owner
- iii) The Declarant may elect to annex additional property or properties for inclusion into the Subdivision more than once and on separate occasions. In addition the Declarant may elect to annex additional property or properties in third party ownership provided always that in such event no such annexation of such property so owned shall be valid and effective unless and until such third party owning the property so annexed shall be named in the amended Declaration and join the Declarant and the Association in the execution and recording thereof.
- iv) In the event of any and each annexation of additional property or properties for inclusion as part of the Subdivision the Association will accept a Conveyance or Conveyances from the Declarant or the owner for the time being or any Roadways, Amenity Areas and/or Common Areas therein as and when the Declarant or otherwise the owner or owners thereof elect to execute and same to the Association

Section 5 – Memorandum or Articles of Association conflicting with Declaration

In the event that any of the provisions of the Association's Memorandum or Articles of Association conflict with any of the provisions of this Declaration, the provisions of this Declaration shall be deemed to prevail.

Section 6 – Perpetuity Period

If and in so far as any easement license right liberty or obligation arising under these presents shall be affected by the rule against perpetuities then the perpetuity period applicable thereto shall be a period of Eight (80) years from the date hereof including this day.

Section 7 – Modification Variation and or Release of the Restrictive Covenants

- i) For as long as the Class B voting shares in the Association remain issued and unredeemed, the Declarant shall have power from time to time whether by amendment to this Declaration in the manner contemplated by Section 3 sub-clause i) of this Article VI or otherwise by or as may be contained in any deed or deeds executed by the Declarant or by writing under the hand of the President of the Declarant to waive or vary or release any of the restrictive covenants in respect of any assessable property interest or to sell and convey any unsold lot remaining in its inventory free from any or all of the restrictive covenants and either subject or not to any different stipulations PROVIDED NEVERTHELESS i) that the power hereby reserved shall not be exercisable so as to create a radical alteration in the scheme of development comprised in the restrictive covenants and ii) that any annexation of land by the Declarant for the purpose of inclusion into the Subdivision in the manner contemplated in Section 4 of this Article VI shall not be deemed or construed as creating a radical alteration in the scheme of development comprised in the restrictive covenants and ii) that any annexation of land by the Declarant for the purpose of inclusion into the Subdivision in the manner contemplated in Section 4 of this Article VI shall not be deemed or construed as creating a radical alteration in the scheme of development comprised in the restrictive covenants.
- ii) Following the redemption and cancellation of the Class B voting shares in the Association, the Association shall have the power from time to time to waive or vary or release any of the restrictive covenants in respect of any lot PROVIDED ALWAYS that any such power shall be exercised by the Association by amendment to this Declaration in the manner contemplated in Section 3 sub-clause ii) of this Article VI.

ARTICLE VII

POWER PF ATTORNEY

In consideration of the grant by the Declarant to the Association of the lot access easements and the perimeter easements and for other good and other valuable consideration received from the Declarant (the receipt whereof the Association hereby acknowledges) the Association hereby irrevocably appoints the Declarant to be the Association's lawful attorney to execute by the authority of the Association and or for and on behalf of the Association any Conveyance of a lot or confirmatory deed or document of any kind relating to a lot or any assessable property interest by which the Association grants or perfects the grant to an owner of the owners easements subject to the terms of this Declaration and in so doing the Declarant may execute any such Conveyance or confirmatory deed or execute or sign any document for the purposes aforementioned either by the authority hereby given to the Declarant to sign in its own name and where sealing is required with its own seal or otherwise on behalf of the Association in the Association's name and as and for its act and deed and where sealing is required with the Association's seal

THE FIRST SCHEDULE HEREINBEFORE REFERRED TO

RESTRICTIVE COVENANTS

1. No building shall be constructed or maintained on any of lots 1 to 198 inclusive or Lots 253 TO 277 inclusive other than residential premises for use of a single-family dwelling on any one such lot.
2. No building or buildings shall be constructed or maintained on any of lots 199 to 201 inclusive, lots 236 to 252 inclusive, lots 278 to 466 inclusive providing for in excess of a total of two (2) units on any one such Lot.
3. No building or buildings shall be constructed or maintained on any of lots 202, 203, 222 or lots 209 to 216 inclusive, providing for in excess of a total of three (3) units on any one such lot.

4. No building or buildings shall be constructed or maintained on either lots 204 to 208 inclusive, lots 224 to 226 inclusive, lot 217 or lot 220 providing for in excess of a total of four (4) units on any one such lot.
5. No building or buildings shall be constructed or maintained on either lot 219 or lot 221 or lots 227 to 230 inclusive providing for in excess of a total of five (5) units on any one such lot.
6. No building or buildings shall be constructed or maintained on lot 223 or lots 231 to 235 inclusive providing for in excess of a total six (6) units any one such lot.
7. No building or buildings shall be constructed or maintained on lot 218 other than as intended to accommodate the business or undertaking of a pre-school or nursey school.
8. Save as regards Lot 218 (but as regards that lot only in respect of the business or undertaking of a nursery school or pre-school permitted thereon) no retail trade or commercial trade shall be carried on upon any lot or any part thereof PROVIDED THAT the leasing of units by owners to tenants shall not be considered commercial trade.
9. As regards those lots referred to in clauses 2 through 6 inclusive of this First Schedule no unit shall be occupied conveyed leased or licensed unless and until provision is made for at least two parking spaces to service the same and to be and remain exclusively appurtenant thereto.
10. No garage, outbuilding, tent, trailer or other temporary building structure or shelter shall be used as a residence or living quarters except during construction of a unit and then only for a period not exceeding one year.
11. No clotheslines may be placed on any lot and no garments rugs bedding washing and the like shall be hung from windows or balconies or the patios of any unit or other structure on any lot.
12. No furniture, packages, equipment, goods or objects of any kind shall be kept or suffered to be kept in or upon any part of the Common Areas by any owner and such areas shall not be used for any purpose other than as may be designated by the Association from time to time.
13. Except as may be approved by the Association no sewerage tank or cesspit shall constructed or maintained on any lot and no domestic fresh water waste shall be discharged or disposed of an any lot otherwise than into a sewerage system.
14. Nothing shall be done to delay prevent hinder, impede or interfere with either the Declarant and/or any utility provider its or their respective agents contractors or licensees in their installation of any subdivision infrastructure.
15. No lot shall be used as a dumping ground for derelict vehicles or boats, rubbish, trash, garbage or other waste matter and no incinerator shall be permitted on any lot.
16. Nothing shall be done on any lot whereby the natural flow of surface water shall be increased or altered in such manner as to cause a nuisance to any adjoining or neighboring property.
17. No owner shall allow any structure on his property to fall into a state of disrepair nor weeds, under brush or unsightly growth to remain thereon and all garden areas shall be landscaped groomed and maintained in a reasonable manner and all walls roofs and other structures property painted and decorated,
18. No sign, billboard, hoarding poster or advertising device of any character shall be erected or displayed on or over any lot without the prior written approval of the Association.
19. No animals or poultry shall be kept, raised or maintained on any lot except pet dogs and cats and such dogs and/or cats shall not be allowed to roam on any other lot or the Common Areas and shall be leashed when taken or allowed onto any part of the Common Areas by an owner.
20. Nothing shall be done on any lot that may be or become an annoyance or nuisance to the owner of any adjoining or neighbouring lot or unit.

21. No large trees measuring six (6) inches or more in diameter at ground level may be removed from any lot without the prior written approval of the Association unless located within ten (10) feet of the main dwelling or accessory building or within ten (10) feet of the approved site for such building.
22. No unit shall remain unfinished for more than eighteen (18) months after the same shall have been commenced.
23. No construction, building or any building activity shall be undertaken on a lot before the hour of 7:00 a.m. or after the hour of 6:00 p.m. and no building or construction or any of the machine work that creates noise will be permitted on Sundays on any lot.
24. No derelict vehicle shall be kept on any lot and no boat shall be kept on any lot save in a garage.
25. No garbage cans or refuse containers of any kind shall be placed on any lot at any time either temporarily or permanently that are not placed in sanitary and secure containers that are adequately screened so that the same are not ordinarily visible from the Roadways and any neighbouring lot.
26. No farming or planting of vegetables or produce shall be carried out on any lot until a house has been constructed thereon and occupied.
27. Nothing shall be done that shall be in breach of either any of the Association's Amenity Rules and Regulations or any of the Association's Security Rules and Regulations promulgated by the Association from time to time.
28. No building fence wall or other structure shall be commenced erected or maintained upon any lot nor shall any exterior addition to or change or alteration (including exterior colour schemes) be made to any unit until the architectural plans referred to in Article V of this Declarant have been approved in writing by the Association pursuant to the procedure set out in Article V.
29. No building fence wall or other structure shall be erected or maintained on any lot save as may be strictly in accordance with the architectural plans relating thereto approved in writing by the Association, and following construction of any of the same pursuant to the written approval of the Association, no building or structure of any kind shall be built, erected, constructed, placed, enlarged or altered on any lot without the express written consent of the Association.
30. No building or structure (boundary walls or fences, garbage container housing, driveways, patios, decks and swimming pools approved by the Association excepted) shall be erected on any lot within 25 feet of the front boundary of any lot or within 20 feet of the rear boundary of any lot or within 8 feet (for any single storey building or structure) or 10 feet (for any two storey building or structure) of any of the side boundaries of any lot PROVIDED THAT i) the Association may approve the construction of a single dwelling house with appropriate outbuildings on more than one adjacent lot in which case this covenant shall not apply in so far as it relates to those of the side boundaries of any two such adjacent lots dividing one such lot from the other and ii) in the case of any corner lot the Association may in its sole discretion determine which of its boundaries shall constitute a side boundary and which (if any) shall constitute a rear boundary for the purpose of the interpretation and enforcement of this covenant.
31. No building shall be of a construction other than reinforced concrete frame and masonry block with reinforced concrete strip foundations and reinforced concrete ground floor slab and no exterior walls are to be finished other than in cement stucco rendering with painted finish or (following approval of such materials by the Association) with elements or natural stone facing.
32. No building on any lot shall have an interior area of less than one thousand four hundred (1,400) square feet or if consisting of two storeys shall have an interior area on the ground floor thereof or less than one thousand two hundred (1,200) square feet PROVIDED THAT such interior area as herein prescribed shall be measured from the outside of each wall and shall not include garages terraces decks open porches screened porches and the like areas

33. No building shall be erected on any lot that is in excess of two (2) stories in height.
34. No building shall be erected on any lot with either an overall finished height (as measured from the average height of the finished grade of the lot on which it is constructed to the highest point of its roof) in excess of 40 feet or with a height in excess of 25 feet measured from the upper level of the foundation of such building to the eaves of its roof.
35. No owner shall remove destroy deface cut maim or otherwise interfere in any way with security fencing walling or other barrier (including any underground foundations thereof) constructed or to be constructed by the Declarant or the Association over under along or through the perimeter strip or any part thereof and no owner shall hinder restrict or in any way interfere with the Declarant or the Association or either of their respective agents employees contractors or workmen in their exercise of the perimeter easements.
36. No solar panels may be brought onto installed or maintained on any lot unless the specifications and locations of the same on the lot are first approved in writing by the Association. After initial construction of any premises or any improvements on any lot the owner shall not make permit or suffer to remain any modifications or alterations thereto (including anything done or proposed to be done to the exterior of any building on the lot or of the doors and windows thereof) either by way of painting decoration the installation of wiring or antenna or air conditioning machines or otherwise howsoever, without the prior written consent of the Association.
37. No chain-link or wire fencing shall be erected or maintained on any lot without the prior approval in writing of the Association PROVIDED ALWAYS that this covenant shall not apply to the Declarant of the Association as regards any security fencing or part thereof running on along or over the perimeter strip or any part or parts thereof.
38. The failure of the Declarant of the Association or any owner to enforce any covenant or condition herein contained shall in no event be deemed a waiver of the right to enforce the same or any other covenant herein.

THE SECOND SCHEDULE HEREINBEFORE REFERRED TO

THE OWNERS' EASEMENTS

PART I

THE UTILITY EASEMENTS

The Association grants to each owner non-exclusive right and easement to the free passage and running of water soil electricity and telephone or other communication through any channel drains wires conduits and pipes serving the lot of each owner and the right to make any connections thereto and to enter into and upon any adjoining or adjacent property for the purpose of maintaining repairing renewing and cleansing the same or making such connections

PART II

THE ACCESS EASEMENTS

The Association grants to each owner and his licensees and invitees a non-exclusive right and easement to go pass and repass along over and upon the Roadways at all times by day or night with or without vehicles of any description or on foot for all purposes connected with the use and enjoyment of such owner's lot but not for any other purpose SUBJECT TO the Association's Security Rules and Regulations

PART III

THE AMENITY EASEMENTS

The Association grants to each owner and his licensees or invitees a non-exclusive right and easement of use access and enjoyment in and to the Amenity Areas SUBJECT TO the Association's Amenity Areas Rules and Regulations and to the Board's right to suspend the right of an owner to use recreational facilities serving the Amenity Areas a) for any period during which any charge against any owner's lot remains delinquent and b) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation, of this Declaration

THE THIRD SCHEDULE HEREINBEFORE REFERRED TO

THE DEVELOPMENT EASEMENTS

The Association grants to the Declarant and every utility provider perpetual non-exclusive easements throughout the Common Areas to the extent reasonably necessary for the purpose of the installation of any and all subdivision infrastructure

THE FOURTH SCHEDULE HEREINBEFORE REFERRED TO

THE LOT ACCESS EASEMENTS

The Declarant grants to the Association and excepts and reserves unto itself its successors assigns and others it may delegate the right but not the obligation to enter into or upon any lot either i) for emergency security and safety reasons to perform emergency maintenance and to inspect for the purpose of ensuring compliance with and enforcing the provisions of this Declaration and/or ii) to remedy any breach by an owner of the restrictive covenants and/or iii) pursuant to and in furtherance of any exercise of the perimeter easements and any such rights may be exercised by any member of the Board and its duly authorized agents assignees and personnel in the performance of their duties and in any case shall not be deemed a trespass

THE FIFTH SCHEDULE HEREINBEFORE REFERRED TO

THE PERIMETER EASEMENTS

The Declarant grants to the Association and excepts and reserves unto itself its successors assigns and others it may so delegate full and free right and liberty to construct erect lay install inspect add to renew repair replace service and maintain such security fencing walling or other barrier on along or over the perimeter strip or any part or parts thereof with such materials and to such specifications as either the Declarant or the Association shall from time to time deem necessary or desirable for the integrity or security of the Subdivision and for such purpose or purposes to i) trench any part of the perimeter strip for the maintenance and or installation of underground footings or materials to support such fencing walling or other security barrier constructed or to be constructed thereon or therein ii) go pass and repass along over and upon the perimeter strip at all times with or without the same and iii) maintain in place unobstructed and constructed under over or along the perimeter strip or any part thereof.

