



**AMENDED AND RESTATED
DECLARATION OF COVENANTS AND RESTRICTIONS
FOR INDIAN TRAILS**

**ARTICLE I
DEFINITIONS**

SECTION 1. DEFINITION OF TERMS: The following terms, as used in this Declaration, shall have the following meaning:

(A) "Act" shall mean and refer to Chapter 720, Florida Statutes, as same may be amended from time to time.

(B) "Articles" shall mean and refer to the Articles of Incorporation of the Association.

(C) "Assessment" shall mean and refer to the share of Common Expenses of the Association assessed to a Lot.

(D) "Association" shall mean and refer to Indian Trails Club, Inc., a Florida Not-for-Profit Corporation and a Florida Homeowners' Association, its successors and assigns.

(E) "Board" or "Board of Directors" shall mean and refer to the Board of Directors of the Association.

(F) "Boat Slips". At the option of the Association, the Association may arrange for the maintenance of Boat slips for use by Lot Owners at Indian Trails. The Boat Slips will be on the Indian River. The use of the Boat Slips by Boat Slip Lessees (as defined below) shall be pursuant to the Indian Trails Boat Slip Leases ("Lease") between the Association and the Boat Slip Lessee. Except for the rights of Lessees as established herein and by the Leases, the Boat Slips shall be considered part of the Common Property. Construction of the Boat Slips by the Association, and the use thereof, will be only pursuant to permits being issued by all governmental agencies having jurisdiction. The Association may, from time to time, adopt and amend a form of Lease for the Boat Slips, and amendments to this Declaration, and, if necessary, amendments to the Association's Articles of Incorporation and By-Laws to regulate the leasing, sale and use of the Boat Slips shall be deemed incorporated into all Leases. Boat Slips are intended for the use and enjoyment of homeowners at Indian Trails.

(G) "Boat Slip Lessees" or "Lessees" shall mean Lot Owners who are party to a Lease with the Association for the use of one of the Boat Slips which are part of the Common Property.

(H) "By-Laws" shall mean and refer to the By-Laws of the Association.

(I) "Charge" means any legal or equitable indebtedness of a Member to the Association, or other sums owed to or due to the Association from a Member, or any cost or

expense incurred by the Association on behalf of or because of a Member, other than Assessments for Common Expenses, which the Member is obligated to pay to the Association. Said obligations may arise by oral or written contract, by law or in equity, or may be created by this Declaration, the Articles of Incorporation or the Bylaws.

(J) "Common Expenses" shall mean and refer to: (1) expenses of administration and management of the Property including but not limited to salaries and year-end bonuses for staff; (2) expenses of maintenance, operation, protection, repair or replacement of the Common Property; (3) expenses declared Common Expenses by the provisions of this Declaration, the Articles or by the By-Laws; (4) any valid charge against the Association or against the Property; (5) the costs of carrying out the powers and duties of the Association; and (6) all other expenses properly incurred by the Association in the performance of its duties.

(K) "Common Property" shall have the same meaning as "Common Area" in the Act and shall mean and refer to all portions of the Property other than the Lots and the Dwellings and Improvements thereon, which are intended for the common use and enjoyment of the Members, which are identified and dedicated to the Association on the recorded subdivision plat of the Property or conveyed to the Association by Deed and all improvements thereon, as well as all personal property of the Association, and further including real or personal property hereafter acquired by the Association. Common Property includes Indian Trails Subdivision Tract 1 (storm water retention pond); Tract 2 (Nature Preserve Less that part assessed in Indian Trails Unit 4); Tract 3 (club house, pool, three tennis courts, & the West 15 feet of Lot 63); Tract 4 (beach property); Tract 5 (Jungle Trail marina frontage); Tract 6 (two tennis courts and overflow parking).

(L) "Architectural Review Committee" (ARC) shall mean and refer to a committee appointed and approved as provided in the By-Laws which shall be empowered to implement and otherwise enforce standards of the Association pertaining to structural and aesthetic modifications and improvements to property of Members.

(M) "Declaration" shall mean and refer to this instrument, and all exhibits hereto, as it may be amended from time to time.

(N) "Developer" shall mean and refer to Indian Trails, Inc., the entity identified in the Original Declaration as the Developer, its successors and assigns.

(O) "Dwelling" shall mean and refer to the home constructed on a Lot to be used for single family residential purposes.

(P) "Improvement" shall mean any change to a Lot or the exterior of a Dwelling, as approved by the ARC.

(Q) "Indian Trails" shall mean and refer to a single family residential development constructed on the Property.

(R) "Lien for Charges" means a lien which is recorded to secure a Charge as further described in Article XII, Section 5, of this Declaration.

(S) "Lot" shall mean each separately owned Lot of the real property included in the Property, except the Common Property as defined herein or as shown on the Plat of the Property and the Boat Slips.

(T) "Marina" shall mean the area of the Common Property within which are located all Boat Slips and docks, the gate to the Marina, as well as existing plumbing and wiring in the area of the Boat Slips and Marina.

(U) "Member" shall mean and refer to the owner or owners of a Lot.

(V) "Mortgage" shall mean and refer to any institutions, entities or persons having a mortgage lien upon a Lot.

(W) "Property" shall mean and refer to that real property legally described in Exhibit "A" attached to the original Declaration and as platted in Plat Book 12, Pages 3A and 3B, as partially amended by plat of Indian Trails, Unit Four, as recorded in Plat Book 12, Page 99, and Indian Trails, Unit Two, as recorded in Plat Book 13, Page 12, all in the Public Records of Indian River County, Florida.

(X) "Recreation Area" shall have the meaning in Article II, Section 2.

(Y) "Rules and Regulations" shall mean and refer to the restriction and requirements adopted by the Board of directors pursuant to the authority granted in this Declaration, the Articles of Incorporation and the By-Laws

(Z) "Voting Interest" shall mean and refer to the voting rights authorized to Members pursuant to the governing documents.

ARTICLE II MAINTENANCE AND OPERATION OF COMMON PROPERTY AND RECREATIONAL FACILITIES

The Developer created within a portion of the Common Property of Indian Trails a "Recreation Area" which includes a beach house, clubhouse with various amenities and with an apartment therein which may be used for any purpose deemed appropriate by the Board of Directors from time to time, swimming pool, pool deck, tennis pro shop, tennis courts, marina and nature walkway with gazebo. The amenities are subject to the provisions of Article V, Section 3 of this Declaration.

ARTICLE III PROPERTY SUBJECT TO THIS DECLARATION

SECTION 1. PROPERTY: The Property shall be held, transferred, sold, conveyed and occupied subject to this Declaration.

SECTION 2. ACQUISITION OF REAL PROPERTY: The Association shall have the power and authority to acquire such interests in real property as it may deem beneficial to its Members. Such interests may include fee simple or other absolute ownership interest, leaseholds, or such other possessory or use interests as the Association may determine to be beneficial to its Members. Any real property acquired pursuant to this section shall be Common Property. The acquisition of real property by the Association shall require the approval of at least two-thirds (2/3) of the total Voting Interests of all Members; provided that the approval required by this Section shall not apply to the acquisition of Lots by the Association in connection with a foreclosure or a deed in lieu of foreclosure of the Association's lien for Assessments, which may be approved by the Board of Directors.

SECTION 3. SALE OF REAL PROPERTY: The Association shall have the power and authority to sell its interests in real property as it may deem beneficial to its Members. The sale of any improved real property owned by the Association or unimproved real property which is generally in use by the Members shall require the approval of two-thirds (2/3) of the total Voting Interests of all Members in the Association; provided that the approval required by this Section does not apply to the sale of Lots acquired by the Association in connection with a foreclosure or a deed in lieu of foreclosure of the Association's lien for Assessments, which may be approved by the Board of Directors.

ARTICLE IV INDIAN TRAILS CLUB, INC.

SECTION 1. FORMATION: The Association serves as the homeowners' association for Indian Trails Club. The purposes and powers of the Association shall be as set forth in this Declaration, Articles of Incorporation, By-Laws, and Rules and Regulations of the Association. The Association shall be responsible for the execution, performance, administration and enforcement of all the terms and conditions of this Declaration, the Articles of Incorporation, the By-Laws and the Rules and Regulations.

SECTION 2. MEMBERSHIP: A person or persons shall become a Member of the Association upon acquisition of fee simple title to any Lot in Indian Trails by filing a deed in the office of the Clerk of the Circuit Court in and for Indian River County, Florida, evidencing such ownership. Membership shall continue until such time as the Member transfers or conveys his interest of record or the interest is transferred and conveyed by operation of law. If title to a Lot is held by more than one person, each person shall be a Member of the Association, but no Lot shall be entitled to more than one (1) vote. Membership shall be appurtenant to and may not be separated for ownership of any Lot. No person or persons holding an interest of any type or nature whatsoever in a Lot only as the security for performance of an obligation shall be a Member of the Association. Ownership is limited to natural persons. Entities including but not limited to corporations, partnerships, and limited liability companies, corporate trusts or land trusts, shall not be permitted to purchase or own Lots and Dwellings at Indian Trails Club. The exceptions to the foregoing are Lots owned by the Association or through a Mortgagee taking title to a Lot and Dwelling through foreclosure or deed in lieu of foreclosure, and trusts established for estate planning purposes.

SECTION 3. ADMINISTRATION OF THE ASSOCIATION: The affairs of the Association shall be administered by the Board of Directors in accordance with this Declaration, the Articles of Incorporation, and By-Laws of the Association.

SECTION 4. VOTING: The Association shall have one (1) class of voting membership. Members shall be all persons or entities holding fee simple title to any Lot in Indian Trails and shall be entitled to one (1) vote for each Lot owned by such Member, as to matters on which the membership is entitled to vote, which vote may be exercised or cast by the Member in such manner as may be provided in the By-Laws of the Association. The foregoing is subject to the right of the Association to suspend voting rights in the manner outlined in the Act.

ARTICLE V COMMON PROPERTY

SECTION 1. COMMON PROPERTY: The Common Property is intended for the use and benefit of the Members of the Association, their tenants and the Members' and tenants' guests, tenants, licensees and invitees. The Association is responsible for the management, maintenance and operation of the Common Property.

SECTION 2. RULES AND REGULATIONS GOVERNING USE OF COMMON PROPERTY: The Association, through its Board of Directors, shall regulate the use of the Common Property by the Members, and their guests, licensees and invitees and may from time to time promulgate such Rules and Regulations as are consistent with this Declaration, governing the use thereof as it may deem to be in the best interests of its Members.

SECTION 3: ALTERATION TO THE COMMON PROPERTY. No portion of the Common Property may be subject to any additions, alterations or improvements (as distinguished from maintenance, repairs and replacements) which involve a Common Expense for any individual addition, alteration or improvement unless such additions, alteration or improvements have been approved by not less than a majority of the votes of the participating membership of the Association present, in person or by proxy, at a meeting called for that purpose at which a quorum is established or voting by written consent in lieu of a meeting where at least a quorum of the membership participates. The cost and expense of any such additions, alterations or improvements to such Common Property undertaken by the Association shall constitute a part of the Common Expenses and shall be assessed to the Members accordingly. No Member shall make any addition, alteration or improvement in or to the Common Property without the prior written approval of the Board of Directors.

ARTICLE VI ASSESSMENTS

SECTION 1. AUTHORITY: The Association, through its Board of Directors, shall have the power and authority to make and collect Assessments as hereinafter set forth.

SECTION 2. ANNUAL ASSESSMENTS: The Board of Directors shall from time to time, and at least annually, prepare a budget for the Association, determine the amount of Assessments payable

by the Members to meet the Common Expenses and allocate and assess such Assessments among the Members in accordance with the provisions of this Declaration and the By-Laws. The Board of Directors shall advise all Members promptly in writing of the amount of the Assessments payable by each of them as determined by the Board of Directors as aforesaid and shall furnish copies of each budget, on which such Assessments are based, to all Members. Incidental income to the Association, if any, may be used to pay regular or extraordinary Association expenses and liabilities, to fund reserve accounts, or otherwise as the Board shall determine from time to time, and need not be restricted or accumulated. Any Budget adopted shall be subject to change to cover actual expenses at any time. Any such change shall be adopted consistent with the provisions of the By-Laws. In addition to annual operating expenses, the budget may include reserve accounts for capital expenditures and deferred maintenance for which the Association is responsible. If reserve accounts are established, such reserves shall be maintained, used, reduced, or waived in the manner provided in the Act. Special assessments may be levied. Special assessments determined from time to time as necessary by the board shall be implemented if approved by not less than a majority of the votes of the participating membership of the Association present, in person or by proxy, at a meeting called for that purpose at which a quorum is established or voting by written consent in lieu of a meeting where at least a quorum of the membership participates.

SECTION 3. PROPORTIONATE SHARE: The total amount of general and special assessments shall be apportioned equally among all Owners, on a per Lot basis, based on the number of single family Lots constituting Indian Trails on the date of the adoption of the Assessment.

SECTION 4. PAYMENT OF ASSESSMENTS:

(A) Liability for Assessments. A new Member shall be jointly and severally liable with the previous Member for all unpaid Assessments and other charges that came due up to the time of the transfer of title. The person acquiring title shall pay the amount owed to the Association at closing prior to transfer of title. Failure to pay the full amount when due shall entitle the Association to record a claim of lien against the Lot and proceed in the same manner as provided herein and in the Act for the collection of unpaid Assessments. The liability for Assessments may not be avoided by waiver of the use or enjoyment of any Common Property or by the abandonment of the Lot for which the Assessments are made or otherwise.

(B) Default in Payment of Assessments. Assessments and installments thereof not paid within ten (10) days from the date when they are due shall bear interest at the highest lawful rate, from the date due until paid. In addition to the above stated interest, the Association shall charge an administrative late fee in an amount not to exceed the highest amount provided for in the Act on Assessments and installments thereof not paid when due. All partial payments upon account shall be applied in the manner prescribed in the Act. The Association is hereby granted a lien on each Lot to secure the payment of Assessments. The lien shall have such priority as may be provided in the Act and shall secure (whether or not stated therein) all unpaid Assessments, which are due at the time a claim of lien is recorded, as well as all regular and special Assessments which may be levied or which may accrue subsequent to the recording of the claim of lien and prior to satisfaction of the lien or the issuance of a certificate of title, together with interest, late charges and all reasonable costs and attorney's fees incurred by the Association incident to the collection and

foreclosure process. The Association may bring an action in its name to foreclose its lien in the same manner a mortgage of real property is foreclosed and may also bring an action at law to recover a money judgment for the unpaid Assessments without waiving any claim of lien. The Association is entitled to recover its reasonable attorneys' fees incurred in either a lien foreclosure action or an action to recover a money judgment for unpaid assessments. As an additional right and remedy of the Association, upon default in the payment of Assessments as aforesaid, the Association may declare the Assessment installments for the remainder of the fiscal year in which a claim of lien has been filed to be accelerated.

(C) Assignment of Rents. The Association is hereby granted a lien against any rents derived from the Lot which shall have the same priority as the Association's lien for unpaid assessments against the Lot. Except to the extent limited by the Act, the lien on any rentals derived from the Lot shall be enforceable by the delivery of written notice to the owner and the tenant demanding the payment of the rents, provided, however, that no such demand may be made unless and until the Member is delinquent in the payment of any Assessment or other charge due and payable to the Association by the Member under this Declaration.

(D) Marina Assessments.

(i) In addition to the Covenants in Section VI of this Declaration, Boat Slip Lessees ("Lessees") shall be subject to payment of general and special assessments ("Marina Maintenance Assessments") for the maintenance and operation of the Marina as established by the "Marina Committee" (defined in Article VII of the Bylaws), and the Association from time to time in accordance with the terms and conditions set forth below. Lessees shall be responsible for their pro rata share (1/28th) of the expenses associated with the maintenance, operation, and repair of the Marina ("Maintenance Assessment"), regardless of whether the maintenance, operation, and repair extends the life of the Marina. The Maintenance Assessment shall be due and payable on a quarterly basis and will be capped at \$5,000 of total repairs made to the Marina in any given calendar year ("Maintenance Cap").

(ii) Should the total cost of the maintenance, operation, and repair of the Marina exceed the Maintenance Cap, the Association will supplement the funds by first using money contained in the "Marina Reserve." In the event that the repair activity, in any given calendar year, exceeds the Maintenance Cap and the funds contained in the Marina Reserve, the Association will obtain the necessary additional funds for payment of these costs by way of a special assessment imposed upon all Association members.

(iii) Payment of all Maintenance Assessments will be enforced against the Lessees pursuant to the provisions of Article VI, Section 3B of this Declaration of Covenants and Restrictions, and the applicable Sections of the Florida Statutes, as amended from time to time, as well as the provisions of this Section VI(D)(iii), provided, however, should the Lessee fail to pay for any Maintenance Assessment or Special Assessment required for maintenance, operation, and repair of the Marina, including any repairs or replacements, due to loss or damage from perils due to windstorm, wave, rain, flood, hurricane, tornado, hail, lightning or any act of God, which is not covered by the fire, casualty and liability insurance, in an amount in excess of the Maintenance Cap

and the funds contained in the Marina Reserve, the Association may, after thirty (30) days written notice to the Lessee, declare Lessee's lease in default and demand that the Lessee immediately surrender and vacate the leased premises to the Association. Should Lessee fail to surrender or vacate the premises within ten (10) days of such notice of default and demand by the Association, payment of such Special Assessments will be enforced against the Lessee pursuant to the provisions of the governing documents regarding assessments and the applicable Florida Statutes, as either may be amended from time to time. The default remedy provided to the Association pursuant to this paragraph specifically applies to a default of the Lessee occasioned by Lessee's non-payment of Marina Assessments or special assessments and is not the sole remedy in such instances and is in addition to and not in lieu of all other remedies provided in the Lease. After Lessee has made payments for five (5) years (60 consecutive months) into the Marina Reserve as set forth herein, the Association's remedy in the event of any Lessee's default shall be limited to the Lessee's immediate surrender of the leased premises to the Association and the Lessee's lease shall be terminated.

(E) Installments. Regular Assessments may be collected no more frequently than monthly nor less frequently than quarterly, in advance, at the option of the Board of Directors. Special Assessments shall be payable on such terms as may be established by the Board.

ARTICLE VII MAINTENANCE OF PROPERTY

SECTION 1. ASSOCIATION RESPONSIBILITIES FOR COMMON PROPERTY: The Association shall be responsible for maintenance, repair and replacement of the Common Property.

SECTION 2. ASSOCIATION AND LOT OWNER RESPONSIBILITIES FOR MAINTENANCE:

(A) Lots. All maintenance, repairs and replacements of, in or to any Dwelling, Lot, or contiguous road right-of-way and grass abutting a body of water, shall be performed by the Owner of such Lot at the Owner's sole cost and expense, except as otherwise expressly provided to the contrary herein.

(B) Specific Owner Responsibilities.

(i) The Owner shall be responsible for all portions of the exterior of his or her Lot, or contiguous road right-of-way and grass abutting a body of water and the interior and exterior of his or her Dwelling, including, but not limited to, paint (colors to be pre-approved by the ARC), exterior repairs, roof repairs and replacements, maintenance and repair of all gutters and downspouts, yard clean-up, sprinkler systems including but not limited to sprinkler heads and the pipes and/or conduits bringing water onto the property, lawn care and maintenance, swimming pool, pool deck, and pool fence maintenance.

(ii) The Owner shall be responsible for cleaning all portions of his roof, walls and driveway on a regular basis, as needed to remove stains, mildew and discoloration and other buildups.

(iii) All maintenance, repair or replacement for which the Owners are responsible shall be performed by the owners or contractors with appropriate licensure and insurance. The Board of Directors may set standards for appropriate levels of insurance and may require proof of licensure, insurance and the procurement of any required permits before permitting a contractor on the property to perform work that requires approval from the Board of Directors. The Board may deny access to the property to any contractor performing work that requires approval from the Board of Directors hereunder until such approval has been granted in the manner required herein.

(iv) The Association may provide, upon any Lot requiring same, after thirty (30) days' written notice to the Lot Owners, to preserve the appearance of the neighborhood, maintenance on any Lot, including, but not limited to, lawn and plant care, roof repair and replacement, paint, gutters, exterior wall surfaces, downspouts, driveways and mailboxes. The costs of same shall become a Lien for Charges against the individual Lot which will have the same force and effect as any other Assessment pursuant to Article VI of this Declaration.

(v) For the purpose of performing maintenance authorized by this Article, the Association, through its duly authorized agents or employees, shall have the right, after 14 days written notice to the lot owner, to enter upon any Lot or the exterior of any Improvements thereon at reasonable hours on any day except Saturday or Sunday. Such access by the Association or its authorized representative(s) and agent(s) shall not be considered a trespass.

(C) Marina. The Association, at the expense of the Boat Slip Lessees (or as otherwise provided herein) shall maintain the docks, the gate to the docks, existing plumbing and wiring.

(D) Common Property. Except to the extent (i) expressly provided to the contrary herein, or (ii) proceeds of insurance are made available therefore, the Association shall be responsible, at common expense, for:

(i) All maintenance, repairs and replacements in or to the Common Property with the exception of road rights-of-way and grass abutting a body of water that are contiguous to a Lot;

(ii) All property owned by the Association;

The Association's aforementioned responsibilities shall not apply to the extent such maintenance, repair or replacement arises from or is necessitated by the negligence, misuse or neglect of one or more Owners, their families, tenants, guests or invitees, in which case such cost and expense shall be paid solely by such Owners, and shall be enforceable in the same manner as any Assessment under Article VI hereof, including, but not limited to, by recordation and foreclosure of a claim of lien against the Lot.

ARTICLE VIII
EASEMENT, COMMON PROPERTY, RIGHT OF ENTRY

SECTION 1. MEMBER'S EASEMENTS OF ENJOYMENT: Subject to the provisions of this Section, each Member shall have a right and easement of enjoyment in and to the Common Property, which easement shall be appurtenant to and shall pass with the title to each Lot.

SECTION 2. EXTENT OF MEMBER'S EASEMENT: The rights and easements of enjoyment created hereby shall be subject to the following:

(A) The right of the Association, to borrow money for the purpose of maintaining or improving the Common Property.

(B) The right of the Association to take such steps as are reasonably necessary to protect the Common Property against foreclosure.

(C) The right of the Association to suspend use rights as provided in Article XIII.

(D) The right of the Association to properly maintain the Common Property.

(E) The right of the Association to dedicate, transfer, license, lease, or grant an easement for all or any part of the Common Property to any public agency, authority, utility water management or water control district, or other entity, Lot owner or person.

(F) Restrictions contained on any Plat, or filed separately, with respect to all or any portion of the Property.

(G) All of the provisions of this Declaration, the Articles of Incorporation By-Laws, all Exhibits thereto, and, the Rules and Regulations, as all of the same may be amended from time to time.

(H) The right of the Association to alter the Common Property, including any amenities thereon, pursuant to Article V, Section 3 of this Declaration.

SECTION 3. EASEMENT GRANTS: The following easements are hereby granted and/or reserved over, across and through the Property:

(A) Easements for the installation and maintenance of utilities are granted. Within these easement areas, no structure, planting or other material, (other than sod) which may interfere with the installation and maintenance of underground utility facilities, shall be placed or permitted to remain, unless such structure, planting or other material was installed by the Association and/or approved in advance in writing by the Association. The Association (or such other entity as is indicated on the plats) is hereby granted access to all easements within which such underground facilities are located for the purpose of operation, maintenance and replacement thereof.

(B) Easements for the installation and maintenance of drainage facilities are granted to the Association, and/or other entities as shown on the recorded subdivision plats of the Property.

Within these easement areas, no structure, planting or other material, (other than sod) which may interfere with such installation and maintenance, or which may obstruct or retard the flow of water through drainage channels shall be placed or permitted to remain unless such structure, planting or other material was installed by the Association. The Association (and any other entity indicated on the plats) shall have access to all such drainage easements for the purpose of operation and maintenance thereof.

(C) The Common Property is hereby declared to be subject to a perpetual nonexclusive easement in favor of the Association, employees and agents of the Association, and of any management entity contracted by the Association, in order that such employees, agents and management entity may carry out their duties.

(D) Easements are hereby reserved throughout the Property by the Association for its use and the use of its agents, employees, licensees and invitees, for all purposes in connection with the maintenance of the Property. The easements may be used for maintenance which includes but is not limited to access to the lake to maintain the lake banks and surrounding areas and to chemically treat those areas and other areas that the Association may be responsible to maintain from time to time, as necessary. The Association and its agents or maintenance personnel shall be permitted to bring equipment, chemicals, and small watercraft through the easement to facilitate such maintenance.

(E) Perpetual easements are granted to maintain and repair drainage ditches, retention areas and culverts which constitutes the drainage system for the Property as approved by the St. John's Water Management District or its successor whether located on a Lot or the Common Property and any culvert under Jungle Trail (Drainage System). The Club is given a non-exclusive easement over the Common Property and Lots of the property to accomplish this requirement.

SECTION 4. EMERGENCY RIGHT OF ENTRY: In case of any emergency originating in, or threatening any Lot or Dwelling on any Lot, regardless of whether the Member is present at the time of such emergency, the Board of Directors of the Association, or any other person authorized by it, shall have the right, but not the obligation to enter such Lot (but not the interior of any Dwelling) for the purposes of remedying, or abating the cause of such emergency, and such right of entry shall be immediate in the event of emergency or upon reasonable notice in all other circumstances. Such entry by the Board or its representatives and/or agents shall not be considered a trespass.

SECTION 5. ADDITIONAL EASEMENTS, LICENSES, AND LEASES: The Association, shall have the right to grant such additional easements, licenses or leases, over Common Property to benefit and facilitate improvements on Lots, private cable television service companies, or to relocate existing easements throughout the Property as the Association may deem necessary or desirable, provided that such additional easements, licenses or leases or relocation of existing easements do not prevent or unreasonably interfere with the Members' use or enjoyment of the Property or interfere with any existing agreements or contracts entered into with any cable television service company or other utility company.

ARTICLE IX ARCHITECTURAL CONTROLS

SECTION 1. ARC AND DESIGNS CONTROLS. The Association, acting through the Board of Directors or the Architectural Review Committee (the "ARC"), shall have the authority to review and approve plans and specifications for the location, size, type, materials, colors, landscaping or appearance or any other improvement on a Lot, and to enforce standards for the external appearance of any structure or other improvement located on the Lot, as set forth in the this Declaration and in any separately published ARC guidelines promulgated by the Board of Directors or the ARC (which guidelines may be included in the Rules and Regulations). If there are any conflicts between this Declaration and the ARC's guidelines, the Declaration shall control. The separately published guidelines may also include a requirement for a reasonable security deposits for damage or destruction to common areas or Association roads, landscaping, or property.

During construction, reconstruction, painting, rehabilitation, repair, or maintenance of any portion of any Lot, including but not limited to the homes on such Lots, any and all damage by contractors, sub-contractors, vendors, materialmen, or agents (hereinafter collectively referred to as "Contractor") to any portion of the Indian Trails Common Areas or infrastructure, including but not limited to damage to the roads within the community, or damage to fences or the Lots or homes of other homeowners shall be repaired promptly by the Contractor. Where damage occurs to plants, grass, trees, ground cover, etc., the Contractor shall, at its expense, restore the damaged area to its condition prior to such damage, to the satisfaction of the owner of the Lot (if the damage is to a Lot) and the ARC. Indian Trails reserves the right to deny access to the property to any Contractor who does not comply with the forgoing provisions. If the repairs are not performed by the Contractor responsible for causing such damage within thirty (30) calendar days from the date notice is sent to the Contractor and the Association performs the repairs, such costs of repair shall become a Lien for Charges against the homeowner who hired the Contractor, collected in the same manner as any other assessment, including the placement of a foreclosable lien on the home.

(A) It is the intent of the Association to create a uniform scheme for the Property and to create within the Property a residential community of high quality and harmonious Improvements. Accordingly, the ARC shall, subject to appeal to the Board of Directors, have the right to approve or disapprove all architecture, landscaping and location of any proposed Improvements for Lots. The ARC shall consist of an odd number of members and no less than three (3) members. Each member shall be a Member of the Association appointed as provided in the By-Laws. The ARC may impose standards for construction and development consistent with all applicable provisions prescribed in applicable building, zoning or other governmental codes. The procedures for the ARC shall be set forth below:

(B) No Improvements shall be constructed, erected, removed, planted or maintained, nor shall any addition to or any change, replacement or alteration therein be made until the plans and specifications therefore showing the nature, kind, shape, height, materials, floor plans, exterior wall texture, color scheme, and the location of same, including a surface water drainage plan showing existing and design grades and/or contours relating to the predetermined ground

floor finish elevation established by the Association, shall have been approved in writing by the ARC pursuant to the applicant process herein below.

(C) In the event the information submitted to the ARC is, in the ARC's opinion, incomplete or insufficient in any manner, the ARC may request and require the submission of additional or supplemental information.

(D) The ARC shall have the right to approve or reject any plans and specifications, which are not suitable or desirable for aesthetic or any other reasons. In approving or rejecting such plans and applications, the ARC shall consider the suitability of the proposed Improvements and materials of which the same are to be built, the site upon which such Improvements are proposed to be erected, the harmony thereof with the surrounding area and the effect thereof on adjacent or neighboring property.

(E) Construction of all Improvements for which the approval of the ARC is required under this Declaration shall be completed within the time period specified by the ARC as it may change from time to time. Failure to complete such work within the specified time period shall be deemed a violation of this Declaration for which the Association will be entitled to damages or any other remedy authorized by this Declaration or the applicable Statute. Such damages may be assessed as an Individual Assessment which may include, without limitation, a fine as provided for in Article XII of this Declaration.

(F) This Article shall not be deemed to excuse any Owner from compliance with local building and construction codes, ordinances, and/or regulations and improvements constructed shall conform to the requirements of such laws, codes, ordinances and regulations, nor shall the ARC's approval create any presumption or representation that the Owner's plans comply with applicable laws, codes, ordinances and regulations, nor that the work will serve its purpose as intended by Owner.

(G) Upon approval by the ARC of any plans and specifications submitted to the ARC, the ARC shall notify the applicant in writing, which notifications shall set forth any qualifications or conditions of approval. In the event that the ARC disapproves any plans and specifications submitted to the ARC, the ARC shall so notify the applicant in writing, stating the grounds upon which such disapproval is based.

(H) Neither the Directors or officers of the Association, the members of the ARC, nor any person acting on behalf of any of them, shall be liable for any costs or damages incurred by any Member within the Property or any other party whatsoever, due to any mistakes in judgment, negligence or any action of the ARC in connection with the approval or disapproval of plans and specifications. Each Member and occupant of any Lot within the Property agrees, as do their successors and assigns by acquiring title thereto or an interest therein or by assuming possession thereof, that they shall not bring any action or suit against the Directors or officers of the Association, the members of the ARC or their respective agents, in order to recover any damages caused by the actions of the ARC. The Association shall indemnify, defend and hold harmless the ARC and each of its members from all costs, expenses and liabilities, including attorneys' fees, of all nature resulting by virtue of the acts of the ARC or its members. Neither

the Directors nor officers of the Association, the members of the ARC, nor any person acting on behalf of any of them, shall be responsible for any defects in any plans and specifications, nor for any defects in any Improvements constructed pursuant thereto. Each party submitting plans and specifications for approval shall be solely responsible for the sufficiency thereof and for the quality of construction performed pursuant thereto.

(I) The approval of the ARC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the consent of the ARC shall not be deemed to set a precedent for approval of any similar plans and specifications or drawings subsequently submitted to approval with respect to the same Lot or any other Lot.

(J) Procedure Before the ARC.

(i) Prior to the commencement of any work on the premises subject to these Restrictive Covenants, the applicant must submit to the ARC (a) a tentative set of plans and specifications to be reviewed by the ARC and commented upon prior to the applicant incurring the expense of final plans and specifications and (b) a tree survey evidencing each tree on the Lot over two (2) inches in diameter. The ARC shall comment upon the tentative plans within thirty (30) days of receipt and forward its comments to the applicant. The applicant must then submit to the ARC two complete sets of plans and specifications for any structural improvement or addition of any kind, together with such fully executed forms, nonrefundable Architectural Review Fees and non-refundable road impact fees as may then be required by the ARC, including the posting of cash or surety bonds and such additional information as requested by the ARC or required by this Declaration and the Design Criteria. Architectural and Landscaping plans and specifications shall be in conformity with the Indian Trails Club Architectural and Landscaping Design Criteria. No later than thirty (30) days after receipt of said plans and specifications, the ARC shall respond to the Owner or his representatives and failing to respond within said thirty (30) day period, the plans and specifications shall be deemed approved.

(ii) Should the ARC disapprove of any plans or specifications submitted to it, or disapprove of any action that an Owner intends to take concerning a matter over which, according to the terms of this Declaration, the ARC has the right of approval or disapproval, the Owner shall have the right to appeal the decision of the ARC to the Board of Directors.

(iii) Within thirty (30) days after an Owner desiring to appeal the ARC's decision receives the written notice of disapproval from the ARC, such Owner shall mail a Notice of Appeal by certified mail, return receipt requested, to both the President and Secretary of the Association and the Chairman of the ARC. A special meeting of the Board of Directors shall be held within thirty (30) days from the date of receipt of the Notice of Appeal by either the said President, Secretary or Chairman. The Owner and the members of the ARC shall have the right to present to the Board of Directors any information that they feel is pertinent concerning the controversy. The Board of Directors, by a majority of the members of the Board of Directors present at the meeting, shall approve or

disapprove said plans and specifications or the proposed action of the Owner. Written notice of approval or disapproval shall be given to the Owner by the Board of Directors within ten (10) days from the date of the meeting.

(iv) In the event of disapproval of plans and/or specifications as submitted, no work or construction shall be commenced in furtherance of the proposed improvement. In the event of approval of said plans and specifications, the applicant shall provide the ARC with written notice of the completion of the staking of the property. No further work shall be performed upon the property until the ARC has inspected the premises and approved stakeout. In the event the ARC fails to respond within forty-eight (48) hours (excluding Saturday, Sundays and legal holidays), after receipt of said notice, said work shall be deemed approved, and this requirement shall be deemed waived by the ARC.

(K) Construction must commence within a reasonable time after obtaining ARC approval and must be substantially completed within twelve (12) months from the time of approval, failing which the Owner shall be required to re-submit the plans and specifications to the ARC for its approval. All necessary building and related permits must be obtained prior to the commencement of construction and all construction must be performed in accordance with applicable building codes and the approved plans and specifications. Any change in plans and specifications from those approved by the ARC must be submitted to the ARC for specific approval.

ARTICLE X USE RESTRICTIONS

SECTION 1. RESTRICTIONS ON USE OF PARCELS AND COMMON PROPERTY:

(A) Residential Use. All Lots shall be used only as single family, private, residential dwellings and for no other purpose. Single family shall mean up to two persons living together as a single housekeeping unit, and their spouses, domestic partners, children, grandchildren, parents, grandparents, parents-in-law and siblings. No business or commercial building may be erected on any Lot. No business or commercial activity of any kind shall be conducted on or from any Lot nor in or from any Dwelling, nor may the address or location of the residence or Association's name be publicly advertised as to location of any business or commercial activity. This restriction shall not be construed to prohibit any Owner from maintaining a personal or professional library, from keeping personal or professional business records in his or her residence, or from handling personal, business or professional communications and written correspondence in and from his residence so long as such use does not involve customers or clients coming onto the Property, the posting of signage within the Property, or create a nuisance as defined in Article X(I) of this Declaration. Notwithstanding the foregoing, the Board of Directors may adopt and amend from time to time Rules and Regulations regarding certain commercial activities which do not establish an ongoing commercial enterprise and do not detract from the residential character of the community.

(B) Occupancy of Lots.

(i) Any and all owners of a Lot shall have the right to occupy the Dwelling thereon, subject to the restrictions in this Declaration. The right of occupancy or use of a Lot may not be transferred to another party, except through conveyance or transfer by operation of law, as approved by the Association in accordance with the terms set forth herein. The individual or individuals designated by a corporation, partnership, trust or other entity to occupy the Lot shall be subject to this Declaration and shall be subject to screening and approval in the same manner as tenants hereunder. The foregoing reference to ownership by entity, with the exceptions noted elsewhere in this Declaration, are meant only for those entities that own a Lot on the date this Declaration is recorded.

(ii) A guest shall be considered any occupant who is not an Owner or approved tenant. There shall be no time limitation on guest occupancy provided the guest occupies the Dwelling with the Owner or approved tenant or the guest is a member of the Owner's or approved tenant's family, as defined above. However, any guest who occupies a Dwelling in excess of thirty (30) days cumulatively in any calendar year shall be subject to screening as a tenant. Guest occupancy in the absence of the Owner or approved tenant by persons other than members of the Owner's or approved tenant's family, as defined above, is prohibited. Prior to any occupancy of the Dwelling by any guest, the Owner or approved tenant must provide written notice to the Association of the name or names of the intended guests, any familial relationship to the Owner or approved tenant, the anticipated date of arrival, and the anticipated date of departure.

(iii) All owners, guests, tenants, family members or invitees shall be subject to the restrictions set forth in this Declaration and in the Rules and Regulations and any person other than an owner violating the restrictions in this Declaration or the Rules and Regulations shall be subject to removal from the Lot/Dwelling and may be precluded from entering the Property.

(C) Leasing. Only entire Dwellings may be rented and no portion of a Dwelling may be rented. A Dwelling shall not be leased or rented without the prior written approval of the Association, which approval shall not be unreasonably withheld. No Owner may lease his or her Dwelling more than once in a twelve (12) month period, measured from the commencement of the most recent prior lease. No lease may be for a term of less than six (6) months or more than twelve (12) months. Vacant lots may not be leased for any purpose. The only exceptions to the foregoing are when a Lot owner is renting from another Lot owner while the renter's house is being built, refurbished, reconstructed, tented, or has other work being performed on it that has a specific time frame for completion. Under such circumstances the minimum and maximum time frames may be waived at the discretion of the Board of Directors. No rooms may be rented and no transient tenants accommodated. A Dwelling shall be considered leased any time it is occupied by a tenant. The Association shall have the right to require that a substantially uniform form of lease be used. The lease shall include a provision granting the Association authority and standing to evict any lessee of an Owner who is in breach or violation of this Declaration or the rules and regulations of the Association. In the event the Association approves a rental or lease, such approval of a lease or rental shall not release the Owner from any obligation under this Declaration, and the tenant shall have the right to use the facilities and

Common Property to the exclusion of the Owner unless the tenant waives such rights in writing. Regardless of whether or not expressed in the applicable lease, if any, an Owner shall be jointly and severally liable with his, hers or their tenants to the Association for any amount which is required by the Association to effect such repairs or to pay any claim for injury or damage to property caused by the negligence of the tenant or for the acts and omissions of the tenant(s) or occupant(s) (whether or not subject to a lease) which constitute a violation of, or non-compliance with, the provisions of this Declaration and of any and all rules and regulations of the Association. All tenants shall comply with and be subject to the provisions of this Declaration, the By-Laws, and the Act and the provisions of same shall be deemed expressly incorporated into any lease of a Dwelling. Subleases are prohibited. The foregoing restrictions and limitations do not apply to leases of Lots owned by the Association.

When a Dwelling is leased, a tenant shall have all use rights in the Common Property otherwise readily available for use generally by Owners, and the Owner of the leased Dwelling shall not have such rights. The exclusive use rights of the lessee shall extend for the full term of any approved lease, unless the lease is terminated due to the death of the tenant or a medical emergency involving the tenant. Nothing herein shall interfere with the access rights of the Owner as a landlord pursuant to Chapter 83, Florida Statutes. Dual usage by an Owner and a tenant of Association Property and Common Property is prohibited.

(D) Pets. Pets are permitted as long as they are not maintained for breeding or for any commercial purpose. The only animals that may not be pets are animals which demonstrate dangerous propensities through biting or scratching people or other animals, lunging or attacking people or animals or other dangerous behavior, wildlife and farm animals including but not limited to pot-bellied pigs, miniature and full sized horses; reptiles; insects; and arachnids. All dogs and cats shall be kept on a leash while outside the Owner's Dwelling or ARC approved fenced enclosure with the leash under the control of the person accompanying the pet. All persons walking a pet or animal outside of a Dwelling, even if on one's own Lot, must immediately pick up after the pet and properly dispose of all solid waste. In the event that any pet kept on the premises shall constitute a nuisance in the opinion of a majority of the Board of Directors of the Association, then the pet owner, when so notified in writing by the Board of Directors, shall be required to immediately remove said pet from the Lot and Property. No pets or animals may be kept or brought on any portion of the Property at any time except as specifically permitted herein and subject to the rules and regulations adopted by the Board of Directors. In addition to the foregoing, the Board may make and amend rules from time to time to impose further restrictions on the keeping and handling of permitted pets on the Property, which may include, without limitation, the species and number of pets which may be permitted. Permission to have a pet on the Property may be revoked for any violation of the requirements of this provision or the rules adopted by the Board from time to time, or should any pet on the Property become a nuisance.

(E) Parking. No residential or community parking space may be used for storage of personal property unless approved by the Board of Directors. The following guidelines shall apply with regard to permitted and prohibited vehicles on the Property (including, without limitation, any assigned or unassigned parking spaces):

- (i) ONLY personal use vehicles may park on any residential property.

(ii) Without limiting the general provisions set forth above, the following types of vehicles WILL NOT be permitted to park on the Property, except in an enclosed garage except as provided by sub- paragraph (iii) below:

(a) Commercial vehicles of any type, including, without limitation, any vehicle, including permitted vehicles, showing or displaying any commercial, charitable or institutional (e.g., church or school) markings, signs, displays, tools, or equipment that is primarily designed to be used for commercial purposes, or otherwise indicating a commercial or other non-personal use regardless of whether or not it is presently being used for commercial purposes or a vehicle used for commercial purposes;

(b) Vans, other than passenger vans (passenger vans must have windows on all body panels);

(c) Two or three wheeled motorized vehicles including but not limited to motorcycles, mopeds, go-peds, three-wheeled motorized bikes or motorcycles; and motorized scooters;

(d) Stretch limousines;

(e) Agricultural vehicles;

(f) Dune buggies, go-carts, go-peds;

(g) Any trailer or other device transportable by vehiculartowing;

(h) Semis, tractors or tractor trailers;

(i) Buses;

(j) Travel trailers;

(k) Personal watercraft, including but not limited to boats, jet skis, and trailers for personal watercraft with or without personal watercraft;

(l) Vehicles which are not fully mechanically operable or not currently licensed or registered for use;

(m) Motorcycle delivery wagons;

(n) Recreational vehicles;

(o) Mobile homes or mobile houses;

(p) Truck mounted campers attached or detached from the truck chassis;

(q) Motor homes or motor houses;

(r) Motor vehicles not having any bodies whatever, or incomplete buggies;

(s) Swamp buggies and all-terrain vehicles

(iii) Notwithstanding anything herein to the contrary, while engaged in making deliveries or service calls, or if being utilized by Association employees, trucks and other commercial vehicles may be parked in designated areas, but not overnight.

(iv) Notwithstanding anything herein to the contrary, but subject to sub-paragraph (iii) above, no vehicle or other device shall be permitted to park on the Common Property for other than delivery or service call purposes, if its dimensions exceed the dimensions of the parking space assigned or designated.

(v) The Board may adopt and amend additional rules and regulations regarding the issuance and display of decals to identify residents' or guests' vehicles.

(F) Gas powered, motorized vehicles may not be used on the property except by licensed drivers. Non-licensed drivers of golf carts must be accompanied by a licensed driver.

(G) Temporary Structures. No structure or object of a temporary character, including, but not limited to, house trailers, vans, tents, shacks, sheds or temporary or accessory buildings or structures, shall be erected, kept or maintained on the Property, or any part thereof without prior written approval from the Board of Directors and the ARC, as provided in Article IX of this Declaration. This restriction shall not apply to temporary structures used by the Association. This restriction may also be waived by the Association with respect to construction by builders, pursuant to separate written agreements.

(H) Insurance. No Member shall permit or suffer anything to be done or kept within his Lot or make any use of the Common Property, which will increase the rate of insurance on any portion of the Property.

(I) Nuisances. No Member shall permit any use or practice, which is either an annoyance or nuisance to exist upon or within the Lot, or permit any conduct that creates any excessive or offensive noise or disturbance to Members or an interference with the peaceful possession and proper use of the Property. No Member shall commit or permit any nuisance or any immoral or illegal activity in or about the Property. For greater clarification, no Member shall knowingly or willfully make or create any unnecessary, excessive or offensive noise, odor, or disturbance which destroys the peace, quiet and/or comfort of the Members or allow any such noise, odor, or disturbance to be made on his Lot. Whether something is a nuisance shall be determined by the Board of Directors

(J) Antennae. Except as permitted by applicable law, as amended from time to time, no radio, television or other electronic antennae, or aerial satellite system (hereinafter collectively referred to as "Antennae") may be erected, installed or maintained anywhere on the Common Property by any person or entity other than the Association, nor may any of the foregoing be installed on any Lot, without the prior written approval of the ARC. To the extent feasible and subject to applicable law, all Antennae approved by the ARC must be placed in locations that are not visible from any street and in a location to minimize annoyance or inconvenience to other Members if the placement would still permit reception of an acceptable quality signal. The ARC is hereby authorized to adopt additional restrictions and guidelines regarding the installation of Antennae.

(K) Access to Lots. Whenever the Association is permitted or required by this Declaration to enter any Lot for the purpose of correction, repair, cleaning, clearing, moving, or any other required or permitted activity, such entrance, by the Association's representatives, its contractors and/or agents shall not be deemed a trespass.

(L) Signs. Except as permitted by the Act, no signs, advertisements or notice of any kind shall be displayed to the public view on any Lot. Notwithstanding the foregoing, the Board may create reasonable rule and regulations from time to time for the set-up, display, and removal of holiday decorations on the Lots and upon the Dwellings.

(M) Trees and shrubs. Approval of the Board of Directors must be obtained before any plantings or potted plants of any kind are placed on the Common Areas.

(N) Water supply systems. No individual shall be permitted to have a private water supply system such as a well, except solely for irrigation purposes, swimming pools or for other non-domestic purposes.

SECTION 2. RESTRICTIONS ON USE OF CONSERVATION AREA: Except as otherwise permitted by the Town of Indian River Shores or other appropriate regulatory agency to maintain in its natural state the conservation area of the Common Property ("Conservation Area") identified as Tract 2 of the plat of Indian Trails, Unit Two, as recorded in Plat Book 13, Page 12, of the Public Records of Indian River County, Florida and a portion of Lots 25 and 26, Indian Trails, Unit Four, as recorded in Plat Book 12, Page 99, as more particularly set forth in Exhibit "A" to the Original Declaration. Except for construction dredging or filling authorized by Florida Department of Environmental Regulation Permits #31-124630 and #31-1061324 and the maintenance of the facilities constructed under said permits, along with the removal of dead and/or exotic vegetation, the following activity shall not be taken on the Conservation Area or on the property described in Exhibit "A" attached to the Original Declaration:

(A) Construction or placing of buildings, roads, signs, billboards or other advertising, or utilities or other structures.

(B) Dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste or unsightly or offensive materials.

- (C) Removal or destruction of living trees, shrubs or other vegetation.
- (D) Excavation, dredging or removal of loam, peat, gravel, soil, rock or other material substance in such a manner as to affect the surface.
- (E) Surface use, except for purposes that permit the land or water area to remain predominantly in its natural condition.
- (F) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, fish and wildlife habitat preservation.
- (G) Acts or uses detrimental to such retention of land or water area.

Further, the St. John's River Water Management District shall have the authority to enforce the above-described conservation restrictions and other applicable rules and shall have the right to enter the Conservation Area and the Exhibit "A" (attached to the Original Declaration) area for such purposes.

SECTION 3. WETLAND CONSERVATION AREA: Exhibit "A" to the original Declaration (as recorded at Official Record Book 855 / Page 1079 of the Public Records of Indian River County) is hereby reincorporated into this amended and restated Declaration as if attached hereto.

ARTICLE XI INSURANCE

SECTION 1. The Association shall obtain and maintain adequate insurance on the Common Property. Such insurance shall afford protection against:

- (A) Loss or damage by wind, fire and other hazards covered by a standard extended coverage endorsement; and
- (B) Such other risks as, from time to time, shall be customarily covered with respect to buildings similar in construction, location and use, including but not limited to, vandalism and malicious mischief.

SECTION 2. COVERAGE:

- (A) Flood insurance, if required by Institutional Mortgagees, or if the Association so elects.
- (B) Liability Insurance. Commercial general liability insurance coverage providing coverage and limits deemed appropriate. Such policies must provide that they may not be canceled or substantially modified by any party, without at least thirty (30) days' prior written notice to the Association.

(C) Directors' and Officers' Liability Insurance. Each member of the Board shall be covered by directors' and officers' liability insurance in such amounts and with such provisions as approved by the Board.

(D) Fidelity Insurance. Fidelity insurance covering all directors, officers and employees of the Association and managing agents who handle Association funds, if any, subject to the terms of and the rights of the Members under the Act.

(E) Other Insurance. Such other insurance coverage as appropriate from time to time. All coverage obtained by Association shall cover all activities of Association and all properties maintained by Association, whether or not Association owns title thereto.

SECTION 3. OWNERS' REQUIREMENT TO PURCHASE INSURANCE: Each Owner may be required to obtain and maintain adequate insurance for the portions of his or her Lot and Dwelling not insured by the Association, such requirements and guidelines to be provided for in the Rules and Regulations, as amended from time to time.

SECTION 4. PREMIUMS: Premiums for insurance policies purchased by the Association shall be paid by the Association as an Operating expense. Premiums may be financed in such manner as the Board of Directors deems appropriate.

ARTICLE XII RECONSTRUCTION OR REPAIR AFTER CASUALTY

SECTION 1. RECONSTRUCTION OR REPAIR AFTER CASUALTY: This provision shall apply to the reconstruction and repair of any portion of Indian Trails damaged by casualty.

(A) Determination to reconstruct or Repair. If any part of Indian Trails Club shall be damaged by casualty, whether or not it shall be reconstructed or repaired shall be determined in the following manner:

(i) Common Property. If the damaged improvement is a Common Property, the damaged property shall be reconstructed or repaired.

(ii) Estimate of Costs. Immediately after a determination is made to rebuild or repair damage for which the Association is responsible for reconstruction and repair, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair. Such costs may include professional fees and premiums for such bonds as the Board desires.

(iii) Responsibility for Reconstruction and Allocation of Expenses. The Association is responsible for the reconstruction of any portion of Indian Trails for which the Association is required to provide casualty insurance and any expenses for such reconstruction not covered by insurance proceeds shall be assessed as a Common Expense.

SECTION 2. CASUALTY DESTRUCTION TO LOTS: In the event that any portion of a Dwelling or other improvement not required to be insured by the Association is damaged or

destroyed by casualty loss or other loss, then within six (6) months after such incident, the Owner thereof shall either commence to rebuild or repair the damaged Dwelling or improvement and diligently continue such rebuilding or repairing until completion, or properly clear the damaged Dwelling or improvement and restore or repair the Dwelling as approved by the ARC. As to any such reconstruction of a destroyed Dwelling or improvements, the same shall only be replaced as approved by the ARC. If the Dwelling or improvement is not reconstructed, then the Lot must be properly cleared within six (6) months including but not limited to the removal of the house pad and pool. All pools must be secured by a proper fence as approved by the authority having jurisdiction and such pools must have water treated to prevent algae and prevent it from becoming a breeding ground for mosquitos or other water born parasites.

ARTICLE XIII ENFORCEMENT

Each Owner and every occupant, lessee, guest, agent, employee or contractor of an Owner and the Association shall be governed by and shall comply with the terms of this Declaration and all exhibits annexed hereto, and the Rules and Regulations adopted pursuant to those documents, as the same may be amended from time to time. The Association (and Owners, if appropriate) shall be entitled to the following relief in addition to the remedies provided in the Act:

SECTION 1. NEGLIGENCE: A Member shall be liable for the expense of any maintenance, repair or replacement, whether to the Common Property, the Lot or the Member's personal property, or to the personal property of the Association or other Members, made necessary by his or her violation of any portion of this Declaration or by his or her negligence or intentional misconduct or by that of any member of his family or his or her guests, agents, employees or contractors, but only to the extent such expense is not met by the proceeds of insurance actually collected by the Association. Any such expense advanced by the Association, together with interest, costs and attorneys' fees, shall be secured by a lien against the Lot enforceable in the same manner as an assessment under Article VI hereof.

SECTION 2. COMPLIANCE: In the event a Member or occupant fails to comply with such Member's obligations under any provision of this Declaration, the By-Laws, the Articles of Incorporation of the Association, applicable Rules and Regulations, or any other agreement, document or instrument affecting the Property in the manner required, the Association shall have the right to proceed in a court of equity to require performance and/or compliance, to sue in a court of law for damages, and levy a special charge against the Member and the Lot for the sums necessary to do whatever work is required to put the Member or Lot in compliance. Such charge, together with interest, costs and attorneys' fees, shall be secured by a lien against the Lot, enforceable in the same manner as assessments levied under Article VI hereof.

SECTION 3. FINES: In the event a Member or anyone for whom a Member is responsible fails to comply with a provision of the Declaration, the By-Laws, the Articles of Incorporation of the Association, applicable Rules and Regulations, or any other agreement, document or instrument affecting the Property in the manner required, the Association shall have the right to impose a fine against the Member and the Lot. Fines of up to ten thousand dollars (\$10,000.00) may be levied by the Board of Directors of the Association. The Association is hereby empowered

to impose a lien for unpaid fines, subject to the limitations set forth in the Act. Furthermore, there shall be no limitation upon the amount of a total fine which may accumulate when a violation is continuing in nature and a fine is levied for each day of the continuing violation.

SECTION 4. SUSPENSION OF USE RIGHT: In the event a Member or anyone for whom a Member is responsible fails to comply with a provision of the Declaration, the By-Laws, the Articles of Incorporation of the Association, applicable Rules and Regulations, or any other agreement, document or instrument affecting the Property in the manner required, the Association shall have the right to impose a suspension of the rights of the Member or the Member's family members, guests, lessees, invitees, or any other person occupying the Lot from using any portion of the Common Property, except to the extent prohibited by the Act.

SECTION 5. LIEN FOR CHARGES: There is created by this Declaration a common law and contractual lien to secure payment for any Charge. By way of example, but not limitation, a Lien for Charges exists to secure repayment to the Association when it must remove or reinstall alterations to the Common Properties damaged or altered by Members, their tenants, family members or guests; or perform maintenance, repair or replacement responsibility in connection with the Member's Lot or exterior of the Member's Dwelling when the Member fails to discharge of his/her/their responsibilities; or address emergency situations with regard to any Lot. The Lien for Charges shall be of equal priority to, shall accrue interest and late fees, and shall be foreclosed in the same manner as the Common Expense lien, including the right to recover attorneys' fees, costs and expenses of collection.

SECTION 6. SUSPENSION OF VOTING RIGHTS: The Association may suspend the voting rights of the Members for non-payment of monetary obligations to the Association to the extent and in the manner provided in the Act.

SECTION 7. COSTS AND ATTORNEY'S FEES: In any proceeding arising because of an alleged failure of a Member or the Association to comply with the requirements of the Act, this Declaration, the By-Laws, the Articles of Incorporation of the Association, or the Rules and Regulations, as the same may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees (including appellate attorneys' fees).

SECTION 8. NO WAIVER OF RIGHTS: The failure of the Association or any Member to enforce any covenant, restriction or other provision of the Act, this Declaration, the By-Laws, the Articles of Incorporation of the Association, or the Rules and Regulations, as the same may be amended from time to time, shall not constitute a waiver of their right to do so thereafter.

SECTION 9. ELECTION OF REMEDIES: All rights, remedies and privileges granted to the Association or a Member pursuant to any terms, provisions, covenants or conditions of the governing documents shall be deemed to be cumulative, and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other additional rights, remedies or privileges as may be granted by the governing documents.

ARTICLE XIV GENERAL PROVISIONS

SECTION 1. COMPLIANCE WITH APPLICABLE LAWS: In addition to these restrictions and covenants, the Members shall abide by the laws, ordinances, Rules and Regulations of the State of Florida, Indian River County, and the Town of Indian River Shores.

SECTION 2. NOTICE: Any notice required to be delivered to any Member under the provisions of this Declaration or the Association's By-Laws shall be deemed to have been properly delivered when mailed, postpaid, to the last known address of the person as it appears on the records of the Association at the time of such mailing or by electronic mail to such address as the Member may designate in writing.

SECTION 3. SEVERABILITY: Invalidation of any one of these covenants and restrictions by judgment or court order shall in no way affect any other provision, which shall remain in full force and effect.

SECTION 4. AMENDMENT:

(A) This Declaration may be amended at a duly called Meeting of the membership by the affirmative vote of a majority of participating Members, provided a quorum is established.

(B) Any duly adopted amendment to this Declaration shall run with and bind the Property for the same period and to the same extent as do the covenants and restrictions set forth herein.

SECTION 5. VENUE: The parties hereto agree that the venue for any action filed in appropriate courts regarding this Declaration shall be Indian River County, Florida.

SECTION 6. USAGE: Whenever used, the singular shall include the plural and the singular, and the use of any gender shall include all genders.

SECTION 7. CAPTIONS AND HEADINGS: The headings and captions used in this document are solely for convenience sake and shall not be considered a limitation of any nature in interpreting the Declaration of Covenants and Restrictions, Articles of Incorporation, and Bylaws.