

IN THE CIRCUIT COURT OF THE
15TH JUDICIAL CIRCUIT IN AND FOR
PALM BEACH COUNTY, FLORIDA

PARKSIDE AT BOCA TRAIL COMMUNITY
ASSOCIATION, INC., a Florida
not-for-profit corporation,

CASE NO.:

Plaintiff,

v.

MARTIN A. ZUCKER and
TANIA G. ZUCKER, husband and wife,

Defendants.

**COMPLAINT FOR INJUNCTIVE RELIEF, BREACH OF CONTRACT, AND
DECLARATORY RELIEF**

COME NOW, Plaintiff, PARKSIDE AT BOCA TRAIL COMMUNITY ASSOCIATION, INC. (“Association” or “Plaintiff”), sues Defendants, MARTIN A. ZUCKER and TANIA G. ZUCKER (collectively, “Defendants”), and alleges:

I. PARTIES, JURISDICTION, AND VENUE

1. Plaintiff is a Florida not-for-profit corporation and homeowners’ association organized pursuant to Chapter 720, Florida Statutes, and is the governing entity for the Parkside at Boca Trail community in Palm Beach County, Florida.
2. Defendants are adult individuals and otherwise sui juris, husband and wife, who at all material times owned and resided at the real property located at 819 Parkside Circle North, Boca Raton, Florida 33486, within the Parkside at Boca Trail community (“Property”).
3. The Property is legally described as Lot 21, Block 5 of BRAMALEA UNICORP, BOCA RATON – SECOND ADDITION P.U.D., according to the Plat thereof as recorded in Plat Book 47, Page 139 of the Public Records of Palm Beach County, Florida (“Benefited

Property”). A copy of the Warranty Deed is attached hereto and made a part hereof as **Exhibit “A”**.

4. This action concerns real property located in Palm Beach County, Florida; the causes of action arise from Defendants’ conduct within this County; and venue is proper in this Court.
5. The amount in controversy exceeds \$50,000, exclusive of interest, attorney fees, and costs, thereby invoking the jurisdiction of this Court.

II. GOVERNING DOCUMENTS AND COMMON PROPERTY

6. Parkside at Boca Trail is a planned development subject to a recorded Master Declaration of Covenants and Restrictions (“Declaration”). A copy of which is attached hereto and made a part hereof as **Exhibit “B”**.
7. Under the Declaration, the Association owns and maintains “Common Properties,” which include certain platted tracts, parks, lakes, recreation areas, open space and related improvements intended for the common use and enjoyment of all owners, on a non-exclusive basis.
8. The Declaration grants each owner a non-exclusive easement of use and enjoyment over the Common Properties but does not authorize any individual owner to appropriate, fence off, or occupy Common Properties for that owner’s exclusive use.
9. The Declaration further establishes an Architectural Control Committee/Board (“ACB”/“ARB”/“ACC”) and provides that all structures and exterior improvements within the community must be constructed only after written approval of the ACC, following submission of plans and specifications.
10. The Declaration provides that the ACC may withhold approval of proposed improvements that are inconsistent with the community’s standards or would be detrimental to the

appearance of the development and that unapproved improvements are subject to removal and enforcement action by the Association.

ARTICLE VI

ARCHITECTURAL CONTROL COMMITTEE

Section 1. Members of Committee: The Architectural Control Committee, sometimes referred to in this Declaration as the "ACC" or the "ARB", shall consist of three (3) members. The initial members of the ACC shall consist of persons designated by the Developer. Each of said persons shall hold office until all Living Units planned for the Development have been constructed and conveyed, or sooner at the option of the Developer. Thereafter, each new member of the ACC shall be appointed by the Board of Directors and shall hold office until such time as he has resigned or has been removed or his successor has been appointed, as provided herein. Members of the ACC may be removed at any time without cause. The Board of Directors shall have the right to appoint and remove all members of the ACC.

Section 2. Review of Proposed Construction: Subject to Section 9 below, no building, fence, wall or other structure or improvement (including landscaping) shall be commenced, painted, erected or maintained in the Development, nor shall any addition, change or alteration visible from the exterior be made, nor shall any awning, canopy or shutter be attached to or placed upon outside walls or roofs of buildings or other improvements, until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to, and approved in writing by, the ACC (after the approval of any condominium association or Neighborhood Association, or any Architectural Control Committee thereof). The ACC shall approve proposals or plans and specifications submitted for its approval only if it deems that the construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the Development as a whole, and that the appearance of any structure affected thereby will be in harmony with the surrounding structures and is otherwise desirable. If the proposed construction, alterations or additions are to common elements of a condominium or to a portion of The Properties which are also maintained or otherwise subject to assessment by a Neighborhood Association, said approval shall also be subject to the prior approval of the Neighborhood Association. The ACC may condition its approval of proposals and plans and specifications as it deems appropriate, and may require submission of additional plans and specifications or

other information prior to approving or disapproving material submitted. The ACC may also issue rules or guidelines setting forth procedures for the submission of plans for approval. The ACC may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, floor plans, site plans, drainage plans, elevation drawings and descriptions or samples of exterior materials and colors. Until receipt by the ACC of any required plans and specifications, the ACC may postpone review of any plans submitted for approval. The ACC shall have thirty (30) days after delivery of all required materials to approve or reject any such plans, and if not rejected within such 30-day period, said plans shall be deemed approved. The ACC herein shall be the ultimate deciding body and its decisions shall take precedence over all others. All changes and alterations shall also be subject to all applicable permit requirements and to all applicable governmental laws, statutes, ordinances, rules, regulations, orders and decrees. Any decision of the ACC may be appealed to the Board within fifteen (15) days from the date of rendition of the decision of the ACC pursuant to procedures established by the Board.

11. The Declaration provides for, as set forth above, restrictions prohibiting additional structures from being erected on any lot without prior written approval of the ACC.
12. Article X of the Declaration authorizes the Association to enforce the Declaration, including by injunctive relief, fines, and special assessments, and to recover its attorney's fees and costs incurred in enforcement.
13. Defendants, by virtue of their ownership of the Property, are "Owners" and "Members" under the Declaration and are contractually bound by all covenants, restrictions, rules, and regulations of the Association.

III. THE PERPETUAL EXCLUSIVE EASEMENT DOCUMENT

14. On or about September 21, 2021, a document entitled "Perpetual Exclusive Easement" ("Easement Document") was executed in favor of Defendants, purporting to grant them an exclusive easement over a portion of Association-owned Common Property contiguous to the Benefited Property (the "Easement Area").

15. The Easement Document recites that the Association is the fee simple title holder of the Easement Area, and grants Defendants an “exclusive easement over the Easement Area for the purpose of the construction of a pool and related structures.”
16. The Easement Document describes the easement as “exclusive” and “perpetual” and states that it shall run with the land and bind Defendants’ heirs, successors, and assigns.
17. The Easement Document was later recorded in the Public Records of Palm Beach County, Florida, on or about June 21, 2022. A copy of the Easement is attached hereto and made a party hereof as **Exhibit “C”**.
18. The Association contends that the Easement Document is ultra vires, void or voidable because, among other reasons, it attempts to convey exclusive dominion over Common Property to one owner for nominal consideration, was not approved by the membership as required to transfer or encumber Common Property and is inconsistent with the Declaration’s scheme of non-exclusive common use and statutory requirements governing association actions. Moreover, it was not obtained and/or granted by the Association as is required under the Covenants.

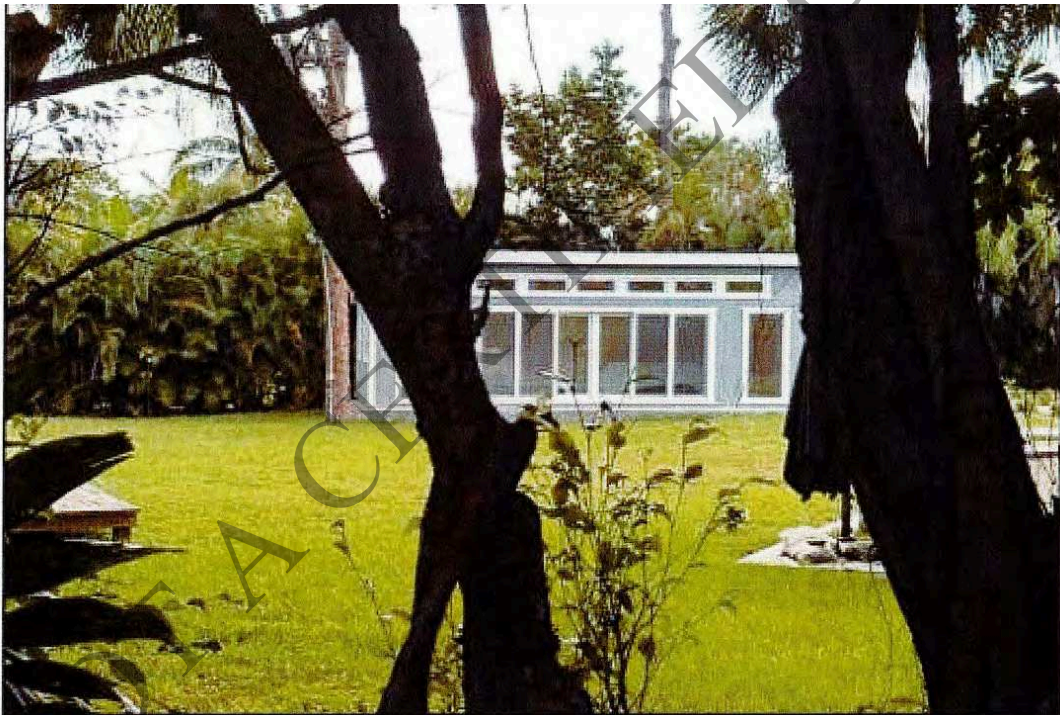
ARTICLE IV

PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 1. Members' Easements of Enjoyment: Subject to the provisions of Section 4 and the additional provisions of this Declaration, every Member, his agents, licensees and invitees, shall have a permanent and perpetual easement for the use and enjoyment of the Common Properties, and each easement shall be appurtenant to and shall pass with a title to every Lot or Living Unit. Such easements of enjoyment shall include but not be limited to the Members' right of ingress and egress over the streets, roadways and walkways on The Common Properties for purposes of access to a Lot or Living Unit, which right of ingress or egress shall not be subject to the fees and charges described in Section 4(a) and (d) below.

IV. DEFENDANTS' UNAPPROVED "MODERN SHED" AND TAKING OF COMMON PROPERTY

19. Defendants constructed a large, detached, "modern shed"-style structure and related improvements (the "Modern Shed") in the rear portion of their Property and into the contiguous Common Property/Easement Area owned by the Association.
20. This Modern Shed is some type of prefabricated or otherwise built room and it is believed that it is not being used as a shed or any sort. However, no access has been granted to verify what was built and Zucker has erected a screen on Association's property to hide visibility of their Modern Shed.



21. The Modern Shed and its associated hardscape, fencing, and improvements occupy and physically appropriate a portion of the Association's Common Property for Defendants' exclusive use, excluding the Association and other owners from use of that area, in addition to not being properly applied for and/or approved.

22. Defendants did not submit a complete ACC application for the Modern Shed or obtain written approval from the Association's ACC before commencing construction, as required by the Declaration.
23. Defendants have continued to maintain, occupy, and use the Modern Shed and the encroached Common Property as their own private backyard extension, despite multiple notices from the Association that such conduct violates the Declaration and constitutes an unauthorized taking of Common Property.
24. The Association has previously demanded in writing that Defendants remove the Modern Shed and restore the affected Common Property to its pre-construction condition.
25. Defendants have failed and refused to remove the Modern Shed, to cease their exclusive use of the Common Property.

V. PRE-SUIT MEDIATION COMPLIANCE

26. Florida Statute § 720.311 requires certain disputes between a homeowners' association and a parcel owner concerning use of or changes to the parcel or common areas, and other covenant enforcement disputes, to be the subject of a written demand for pre-suit mediation before litigation is filed.
27. On or about September 15, 2025, the Association, through its counsel, served Defendants with a written "Mandatory Mediation Notice – Statutory Offer to Mediate" pursuant to § 720.311, Florida Statutes ("Mediation Demand").
28. Both parties attended the Association's mandatory mediation, therefore all conditions precedent to the filing of this action, including all pre-suit mediation requirements of § 720.311, Florida Statutes, have been satisfied, have occurred, have been waived by Defendants' failure to comply.

COUNT I – INJUNCTIVE RELIEF

(Encroachment Upon Common Property and Violation of Declaration)

29. Plaintiff realleges and incorporates Paragraphs 1 through 28 as though fully set forth herein.
30. Defendants' construction, maintenance, and use of the Modern Shed and associated improvements on and into the Association's Common Property constitute a continuing violation of the Declaration and an unauthorized taking and encroachment upon Common Property.
31. Defendants' failure to submit the proper ACC plans and go through the process outlined in the Declaration as attached and as set forth above, in obtaining written approval prior to construction, which is an independent violation of the Declaration's architectural control provisions.
32. Florida law specifically authorizes the Association to seek injunctive relief to enforce its covenants, restrictions, and rules, including to compel the removal of unapproved structures and to require compliance with architectural review procedures.
33. Common Property is unique and irreplaceable; money damages alone cannot adequately remedy the loss of shared open space, the alteration of the community's design scheme, or the precedent set by allowing one owner to appropriate Common Property for exclusive use.
34. Unless enjoined, Defendants will continue to occupy and use the encroached Common Property, will continue to maintain the Modern Shed in violation of the Declaration, and will cause further irreparable injury to the Association and its members. The violation itself under Florida law is the irreparable harm/injury and affects the Association's ability to seek the same redress against other owners at the Association.
35. The Association has no adequate remedy at law for Defendants' ongoing violations and encroachment and is entitled to temporary, preliminary, and permanent injunctive relief.

WHEREFORE, Plaintiff respectfully requests that the Court:

Enter a temporary and permanent injunction requiring Defendants to:

1. Cease their exclusive use and occupation of the Association's Common Property;
2. Remove the Modern Shed and any and all unapproved improvements encroaching into Common Property associated with the Modern Shed; and
3. Restore the affected Common Property to its prior grade, landscaping, and condition within a time certain set by the Court; next, Authorize the Association, in the event Defendants fail to timely comply, to enter upon the Property and Common Property to remove the Modern Shed and restore the area, with all costs and expenses to be assessed against Defendants as an individual assessment; Enjoin Defendants from constructing or maintaining any future improvements that encroach upon Common Property or that are not first approved in writing by the ACC in accordance with the Declaration; Award Plaintiff its reasonable attorney's fees and costs pursuant to the Declaration, § 720.305 and § 720.311, Florida Statutes, and any other applicable authority; and Grant such other and further relief as the Court deems just and proper.

COUNT II – BREACH OF CONTRACT
(Declaration and Related Governing Documents)

40. Plaintiff realleges and incorporates Paragraphs 1 through 28 as though fully set forth herein.
41. The Declaration, together with the Association's articles, bylaws, and any duly-adopted rules and regulations, constitutes a binding contract between the Association and each owner, including Defendants.
42. As Owners and Members of the Association, Defendants are contractually obligated to comply with the Declaration's provisions regarding Common Property, architectural control, use restrictions, and enforcement.

43. Defendants materially breached the Declaration and governing documents by, among other things:

- a. Constructing and maintaining the Modern Shed and related improvements without properly and completely submitting plans and obtaining written ACC approval including going through the approval process;
- b. Occupying and appropriating Common Property for their exclusive use, contrary to the Declaration's scheme of non-exclusive common use;
- c. Maintaining an unapproved accessory structure/outbuilding in violation of the Declaration's restrictions on additional temporary or permanent structures;
- d. Failing to comply with the Association's written demands to remove the Modern Shed and restore the Common Property or to otherwise resolve the violation.

44. As a direct and proximate result of Defendants' breaches, the Association has suffered and will continue to suffer damages, including but not limited to:

Inability and/or challenge to the enforcement of the Association's Covenants, the inability to enforce such provisions against other Owners in the future; Exposure to potential claims or disputes relating to the Easement Area and Common Property access, failure to be able to enforce the ACC guidelines in the future, the taking of Association Property; and Attorney's fees, costs, and expenses incurred in investigating, noticing, and attempting to resolve Defendants' violations and in prosecuting this action.

45. The Declaration and Florida law entitle the prevailing party in an action to enforce the Declaration and covenant restrictions to recover its reasonable attorney's fees and costs, as provided for above.

WHEREFORE, for the reasons set forth herein, Plaintiff demands judgment in its favor and against Defendants for:

- A. Damages in an amount to be proven at trial;
- B. An order compelling specific performance of Defendants' contractual obligations under the Declaration, including removal of the Modern Shed and restoration of Common Property to its prior condition, to the extent not already ordered under Count I;
- C. Plaintiff's reasonable attorney's fees and taxable costs pursuant to the Declaration, § 720.305 and § 720.311, Florida Statutes, and any other applicable law; and
- D. Such other and further relief as the Court deems just and proper.

COUNT III – DECLARATORY RELIEF

(Validity and Scope of Easement; Rights in Common Property)

46. Plaintiff realleges and incorporates Paragraphs 1 through 28 as though fully set forth herein.

47. An actual, present, and justiciable controversy exists between Plaintiff and Defendants concerning:

- a. The validity and enforceability of the Perpetual Exclusive Easement purporting to grant Defendants exclusive rights over Association-owned Common Property; and
- b. The parties' respective rights and obligations regarding the Easement Area, the Modern Shed, and the use of Common Property under the Declaration and Florida law.
- c. The process of ACC application and approval and what is required therein.

48. The Association contends, and Defendants dispute or may dispute, that:

- a. The Easement Document is ultra vires, void or voidable in whole or in part;
- b. Defendants have no lawful right to exclusive possession, enclosure, or privatization of any portion of Common Property beyond the non-exclusive easements of use enjoyed by all owners; and

c. Defendants remain subject to all architectural control and covenant enforcement provisions of the Declaration as to any improvements located in or affecting the Easement Area and Common Property.

49. A declaration of the parties' respective rights will resolve uncertainty and guide the Association in its ongoing duty to administer and protect the Common Property and to enforce the Declaration in a uniform manner.

50. The Association has no adequate remedy at law for the controversy regarding the scope and validity of the Easement and the parties' rights in Common Property, and declaratory relief is appropriate under Chapter 86, Florida Statutes.

WHEREFORE, Plaintiff respectfully requests that this Court enter a declaratory judgment:

A. Declaring that the Perpetual Exclusive Easement, to the extent it purports to grant Defendants exclusive, perpetual dominion over Common Property, is ultra vires and void or voidable and of no effect, or alternatively, strictly limiting its scope to the minimum rights that may lawfully be granted under the Declaration and applicable law;

B. Declaring that Defendants have no right to maintain the Modern Shed or any other unapproved structure within or encroaching upon Association Common Property or beyond the limited purpose authorized, if any, under the Easement Document;

C. Declaring that Defendants must comply with all architectural review and covenant enforcement provisions of the Declaration with respect to any improvements on the Property, the Easement Area, and adjoining Common Property;

D. Confirming the Association's authority to require removal of the Modern Shed and restoration of the affected Common Property and to impose appropriate fines, individual assessments, and enforcement actions for Defendants' violations;

E. Awarding Plaintiff its reasonable attorney fees and costs pursuant to the Declaration,

§ 720.305, § 720.311, and Chapter 86, Florida Statutes, and any other applicable authority; and

F. Granting such other and further relief as the Court deems just, proper, and equitable.

DEMAND FOR JURY TRIAL

Demand for Jury Trial on all matters such that are triable.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via email through the Florida Courts E-Filing Portal on December 12, 2025 in accordance with Rule 2.516 of the Florida Rules of Judicial Administration upon all counsel of record and interested parties.

SHIR LAW GROUP, P.A.

2295 N.W. Corporate Blvd., Suite 140

Boca Raton, Florida 33431

Phone: 561-999-5999

Fax: 561-893-0999

By: /s/ Guy M. Shir

Guy M. Shir, Esq., Fla Bar No. 114863

Email: gshir@shirlawgroup.com

Service Email: office@shirlawgroup.com

Attorney for Plaintiff



EXHIBIT A

CFN 20090056815
OR BK 23087 PG 0862
RECORDED 02/19/2009 09:35:52
Palm Beach County, Florida
AMT 562,500.00
Doc Stamp 3,937.50
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 0862 - 863; (2pgs)

Prepared by and return to:

Paramount Title Agency, LLC
800 W. Cypress Creek Road, Suite 502
Fort Lauderdale, FL 33309

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Warranty Deed

This Warranty Deed made this 9th day of **February, 2009** between **Gavin Kesten**, a single man, and **Sheri Kesten**, a married woman, whose address is 101 Plaza Real S., #416, Boca Raton, FL 33432, (collectively, "Grantor") to **Martin A. Zucker and Tania G. Zucker, husband and wife**, whose address is 819 Parkside Circle North, Boca Raton, FL 33486 (collectively, "Grantee").

(Whenever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, trusts and trustees).

Witneseth, that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in Palm Beach County, Florida, to-wit:

Lot 21, Block 5, of BRAMALEA UNICORP, BOCA RATON – SECOND ADDITION P.U.D., according to the Plat thereof, as recorded in Plat Book 47, Page 139, in the Public Records of Palm Beach County, Florida.

Parcel Control Number: 06-42-47-26-18-005-0210
A/K/A: 819 Parkside Circle North, Boca Raton, FL 33486

Subject to easements, restrictions and reservations of record and to taxes for the year 2009 and thereafter.

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

To Have and to Hold, the same in fee simple forever.

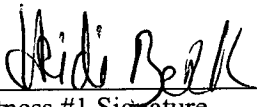
And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2008.

This property does not constitute the homestead property of Grantor Sheri Kesten, nor is it contiguous thereto. Grantor's Homestead Property is located at: is 101 Plaza Real S., #416, Boca Raton, FL 33432.

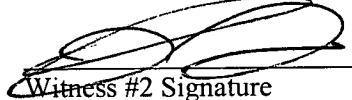
[Signatures and Acknowledgments Appear on the Following Page]

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.


Signed, sealed and delivered in our presence:



Witness #1 Signature

W. BERK
Witness #1 Printed Name


Witness #2 Signature

Richard Simon
Witness #2 Printed Name

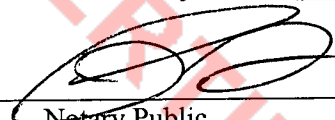

Gavin Kesten


Sheri Kesten

STATE OF FLORIDA
COUNTY OF PALM BEACH


The foregoing instrument was acknowledged before me this 9 day of February, 2009 by Gavin Kesten and Sheri Kesten, who are personally known to me or have produced Driver's License as identification.

SEAL


Notary Public

Richard Simon
Printed Notary Name

My Commission Expires: 12-15-2010

NOTARY PUBLIC - STATE OF FLORIDA
 Richard Simon
Commission # DD610239
Expires: DEC. 15, 2010
BONDED THRU ATLANTIC BONDING CO., INC.

82 113128

1982 JUL 19 AM 11:01

MASTER DECLARATION OF COVENANTS AND RESTRICTIONS

OF

PARKSIDE AT BOCA TRAIL

16/60

83780 P1238

Prepared by:

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OF
PARKSIDE AT BOCA TRAIL

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MASTER DECLARATION OF COVENANTS AND RESTRICTIONS

OF

PARKSIDE AT BOCA TRAIL

THIS DECLARATION made this 13TH day of JULY, 1987, by BRAMALEA, INC., a Delaware corporation qualified to conduct business in the State of Florida, hereinafter called "Developer".

W I T N E S S E T H :

WHEREAS, Developer is the owner of the real property described in Article II of this Declaration and desires to create thereon a residential community with open spaces, and other common facilities for the benefit of such community, which community has been named by the Developer as "Parkside at Boca Trail", which from time to time may also be called "Bramalea Unicorp, Boca Raton--First Addition P.U.D., Trading as Parkside at Boca Trail"; and,

WHEREAS, Developer desires to provide for the preservation of the values and amenities in the community and for the maintenance of the common properties; and, to this end, the Developer desires to subject the real property described in Article II together with such additions as may be made to such real property in accordance with the provisions herein to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of such property and each owner of such property; and

WHEREAS, Developer has deemed it desirable, for the efficient preservation of the values and amenities in the community, to create an agency to which should be delegated and assigned the powers of maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, the Developer has incorporated under the laws of the State of Florida, as a non-profit corporation, PARKSIDE AT BOCA TRAIL COMMUNITY ASSOCIATION, INC., for the purposes of exercising the functions stated above, which Association is not intended to be a "Condominium Association" as such term is defined and described in the Florida Condominium Act (Chapter 718 of the Florida Statutes).

NOW, THEREFORE, the Developer declares that the real property described in Article II, and such additions to such real property as may be made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

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ARTICLE I

DEFINITIONS

Section 1. The following words when used in this Declaration of Covenants and Restrictions of PARKSIDE AT BOCA TRAIL (hereinafter called "Declaration") shall have the following meanings:

- (a) "Articles" means the Articles of Incorporation of the Association.
- (b) "Association" shall mean and refer to the Parkside at Boca Trail Community Association, Inc., whose purpose is to administer The Properties in accordance with the provisions of this Declaration and the governing documents of the Association.
- (c) "Board" means the Board of Directors of the Association.
- (d) "By-Laws" means the By-Laws of the Association.
- (e) "Common Properties" shall mean and refer to those areas of land shown on any recorded subdivision plat of The Properties and intended to be devoted to the common use and enjoyment of the owners of The Properties, in accordance with the terms of this Declaration. Common Properties on the Plat [as the term "Plat" is defined in Paragraph (t) of this Section] shall include: Tracts 1, 2, 3, 4, and 5, the areas designated as a "Park", "Lake", "Recreation", and "Open Space", and the following streets and roads as indicated on the Plat: S.W. 22nd Ave., S.W. 22nd Ave. Circle, S.W. 15th Place, S.W. 16th Place, S.W. 14th Place, S.W. 12th Place and S.W. 12th Street, as well as any additional parcels of land on the Plat as the Developer may from time to time designate as Common Properties or as is presently dedicated on the Plat for purposes other than for fee simple ownership by the Owners of a Lot or Living Unit.
- (f) "Developer" means Bramalea, Inc., a Delaware corporation, and its successors and assigns. Provided, however, that any rights specifically reserved to Bramalea, Inc. in any instrument of conveyance shall not inure to the benefit of its successors or assigns unless such rights are subsequently released in a recorded instrument. The Developer may assign or pledge any or all of its rights reserved under the Land Use Documents upon a

specific designation to such assignee in an instrument of conveyance or assignment.

- (g) "Development" shall mean and refer to all property legally described as set forth in Exhibit "A" attached to this Declaration, currently owned by the Developer or an affiliate of the Developer, and all or a portion of which property may be made part of a common scheme of development.
- (h) "First Mortgagee" shall mean and refer to an Institutional Lender who holds a first mortgage on a Lot or Living Unit and who has notified the Association in writing of its holdings.
- (i) "Institutional Lender" shall mean and refer to one or more commercial or savings banks, savings and loan associations, mortgage companies, insurance companies, pension funds, or business trusts including but not limited to real estate investment trusts, and any other lender engaged in financing the purchase, construction, or improvement of real estate, or any assignee of loans made by such lender, or any private or governmental institution which has insured the loan of the lender or any combination of the foregoing entities.
- (j) "Lakes" shall mean and refer to that certain area designated "Lake" on the Plat, as well as any lakes so identified on any other recorded subdivision plat which may be made subject to the terms of this Declaration by means of a Supplemental Declaration.
- (k) "Land Use Documents" shall mean this Declaration, the Articles, By-Laws, and the Rules.
- (l) "Limited Common Properties" shall mean and refer to those areas of the Common Properties designated as Tracts 2-7 through 2-43, inclusive; 3-2 through 3-6, inclusive; 5-5 through 5-13, inclusive; P-19 through P-36, inclusive; L-1 through L-5, inclusive; L-14 through L-19, inclusive; and L-36 through L-43, inclusive, on the Plat (as hereinafter defined in this Section 1) of the Existing Property, which shall be owned by the Association as part of the Common Properties but whose exclusive use and enjoyment shall be restricted to the Owners of the Lots designed in Section 7 of Article IV of this Declaration.

- (m) "Living Unit" shall mean and refer to any portion of a building situated upon The Properties designed and intended for use and occupancy as a residence by a Single Family. By way of example but not limitation, the term "Living Unit" shall include a condominium parcel, a townhouse unit, or any other form of single-family residential dwelling.
- (n) "Lot" shall mean and refer to that portion of land shown upon any recorded subdivision of The Properties which has been designated by the Developer to contain a Living Unit, with the exception of the Common Properties. For purposes of this Declaration and the other Land Use Documents, whenever more than one Living Unit is located upon a Lot, the term "Lot" shall mean "Living Unit".
- (o) "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article III, Section 1 hereof.
- (p) "Neighborhood Association" shall mean and refer to any non-profit corporation organized by the Developer for purposes of administering a portion of The Properties which are governed by this Declaration and which has additional or separate functions from the Association.
- (q) "Notice" shall mean and refer to:
- (i) Written notice delivered personally or mailed to the last known address of the intended recipient, in the manner set forth in the By-Laws of the Association; or
 - (ii) Notice published at least once each week for two consecutive weeks in a newspaper having general circulation in Palm Beach County; or
 - iii) Notice given in any other manner provided in the By-Laws of the Association.
- (r) "Open Space" shall mean and refer to those areas of The Properties which constitute open area, clear from the ground upward, devoid of residential and commercial buildings, accessory structures and impervious areas (except, however, those buildings used exclusively for recreational purposes), and any other areas described as Open Spaces, in the Palm Beach County Building and Zoning Code (1979), or

the Zoning Code of the City of Boca Raton effective as of the date of this Declaration.

- (s) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or Living Unit situated upon The Properties but, notwithstanding any applicable theory of the mortgage, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.
- (t) "Plat" shall mean and refer to the plat of Bramalea Unicorp, Boca Raton - First Addition P.U.D., which is a plat of a portion of Sections 35 and 26, Township 47 South, Range 42 East, recorded in the Plat Book _____, Page _____, of the Public Records of Palm Beach County, Florida.
- (u) "The Properties" shall mean and refer to all such existing properties, and additions thereto, as are subject to this Declaration or any Supplemental Declaration recorded under the provisions of Article II hereof.
- (v) "Roads" shall mean those private streets, roads, terraces, drives, cul-de-sacs, courts, and avenues including the entire rights-of-way as designated and set forth on the Plat and any other recorded subdivision plat which may be made subject to the terms of this Declaration by means of a Supplemental Declaration.
- (w) "Rules" means any and all rules and regulations of the Association promulgated by the Board pursuant to its powers under this Declaration or any other "Land Use Document".
- (x) "Single Family" shall mean and refer to either a single person occupying a Living Unit and maintaining a household, including not more than one authorized tenant; or two (2) or more persons related by blood, marriage, or adoption occupying a Living Unit and living together and maintaining a common household, including not more than one authorized tenant; or not more than four (4) unrelated persons occupying a Living Unit as distinguished from a group occupying a boarding or lodging house, hotel, club or similar dwelling for group use.

- (y) "Turnover" shall mean that date following conversion of Class "B" votes to Class "A" votes upon which the Developer conducts a Special Meeting of the Membership for the purposes of election of officers and directors, as set forth in Article III of this Declaration.
- (z) "Unimproved Lot" shall mean and refer to a Lot owned by the Developer for which a certificate of occupancy or completion for a Living Unit has not been issued by the appropriate governmental authority or which has not been conveyed by the Developer to a Class "A" Member.
- (aa) "Unimproved Living Unit" shall mean and refer to a Living Unit owned by the Developer for which a certificate of occupancy has not been issued by the appropriate governmental authority or which has not been conveyed by the Developer to a Class "A" Member.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION AND ADDITIONS THERETO

Section 1. Existing Property. The real property which initially is, and shall be, held, transferred, sold conveyed and occupied subject to this Declaration is located in the City of Boca Raton in Palm Beach County, Florida, and is more particularly described as follows:

BRAMALEA UNICORP, BOCA RATON - FIRST
ADDITION P.U.D., a Plat of a portion of
Sections 35 and 26, Township 47 South,
Range 42 East, as recorded in Plat
Book _____, Page _____, of the Public
Records of Palm Beach County, Florida..

All of the foregoing real property shall sometimes be referred to as "Existing Property".

Developer reserves the right to make such changes and/or modifications to the Plat as are required by appropriate governmental authorities.

Section 2. Additions to Existing Property. Additional lands may become subject to this Declaration in the following manner:

- (a) Additions by the Developer: The Developer may from time to time bring other land under the provisions hereof by recorded supplemental declarations (which shall not require the

consent of Owners or the Association or any other association which may be created to administer a portion of The Properties or any mortgage) and thereby add to The Properties. It is the present intention of the Developer that all real property within the Development shall eventually be made a part of The Properties and, accordingly, reference herein to The Properties should be deemed to be reference to all of the Development where such reference is intended to include property other than the Existing Property. Nothing herein, however, shall obligate Developer to add to the Existing Property to develop future portions of the Development under such common scheme nor to prohibit Developer from rezoning and changing the development plans with respect to such future portions and/or adding additional or other property to the Development and The Properties under such common scheme. All Owners, by acceptance of a deed to a Lot or Living Unit, shall thereby automatically consent to any such rezoning, change, addition or deletion thereafter made by the Developer and shall at any time evidence such consent in writing if requested to do so by the Developer.

- (b) Additions by Approval of Members: Without restriction upon the Developer to add to The Properties in the manner provided in the foregoing Paragraph (a), upon approval in writing of the Association pursuant to a vote of its Members as provided in its Articles of Incorporation, the owner of any property who desires to add to the scheme of this Declaration and to subject it to the jurisdiction of the Association, may file of record a Supplemental Declaration of Covenants and Restrictions with respect to the additional property, which shall extend the scheme of the covenants and restrictions of this Declaration to such property.
- (c) Additions by Merger: Upon a merger or consolidation of the Association with another association as provided in its Articles of Incorporation, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the Covenants and Restrictions established by this Declaration within the Existing Property together with the Covenants and Restrictions established upon any other property as one scheme.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN
THE ASSOCIATION; TURNOVER

Section 1. Membership: Every person or entity who is a record owner of a fee or undivided fee interest in any Lot or Living Unit which is subject by covenants of record to assessment by the Association shall be a Member of the Association, provided that any such person or entity who holds an interest merely as security for the performance of an obligation shall not be a Member.

Section 2. Voting Rights: The Association shall have two classes of voting membership:

(a) Class "A" - Class "A" Members shall be all those owners as defined in Section 1 with the exception of the Developer. Class "A" Members shall be entitled to one vote for each Lot or Living Unit in which they hold the interest required for membership by Section 1. When more than one person holds such interest or interests in any Lot or Living Unit, all such persons shall be Members, and the vote for such Lot or Living Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot or Living Unit. The By-Laws may establish procedures for voting when the title to a Lot or Living Unit is held in the name of a partnership, a corporation, or more than one person or entity.

(b) Class "B"

(i) Class "B" Members shall be the Developer. The Class "B" Member shall be entitled to three votes for each Lot or Living Unit in which it holds the interest required for membership by Section 1, provided that the Class "B" Membership shall cease and become converted to Class "A" Membership on the happening of the earlier of either of the following events:

- (1) when the total votes outstanding in the Class "A" Membership equal the total votes outstanding in the Class "B" Membership; or
- (2) at any earlier time that the Developer, in its sole discretion, voluntarily converts its Class "B" Membership to Class "A" Membership.

From and after the happening of the earlier of these events, the Class "B" Member shall be deemed to be a Class "A" Member entitled to one vote for each Lot or Living Unit in which it holds the interest required for Membership under Section 1. Provided, however, that so long as the Developer holds title to any of the properties which are part of the Development ("Development Properties") and irrespective of whether any of the Development Properties have been submitted to the provisions of this Declaration, then such Lots or Living Units located in the Development Properties shall be considered part of the total number of Lots and Living Units for purposes of determining whether the Developer retains its Class "B" voting rights; and, provided further, that unless otherwise indicated on recorded plats of the Development Properties, for purposes of determining Class "A" and Class "B" voting rights, the number of Lots

or Living Units located in each part of the Development Properties subjected to this Declaration is shown on Exhibit "A" to this Declaration.

(ii) Notwithstanding any provision in Paragraph (i) of this Subsection (b) to the contrary, the Developer shall have the right to elect or appoint a majority of the Board of Directors of the Association until the occurrence of the earlier of the following events: [1] one (1) year after the Developer no longer holds the title to any portion of the Development; or [2] the relinquishment by the Developer of its right described in this Paragraph (ii).

Section 3. Turnover: Within ninety (90) days after the happening of the later of the conversion of Class "B" Membership to Class "A" Membership in the manner described in Paragraph (i) of Section 2, or the termination or relinquishment (whichever occurs first) of the Developer's right to elect a majority of the Board of Directors of the Association pursuant to the provisions of Paragraph (ii) of Section 2, the Members shall assume control of the Association and the Association shall conduct a Special Meeting of the Membership (hereinafter called "Turnover Meeting") for the purpose of electing the Board of Directors. Provided, however, that so long as the Developer is the Owner of one Lot or Living Unit governed by the Association, the Developer shall be entitled to appoint one Member to the Board of Directors. Provided, further, that for purposes of determining the votes allowed under this Article, when Living Units are counted, the Lot or Lots upon which such Living Units are situated shall not be counted.

Section 4. Additional Membership Categories: The By-Laws may provide for additional membership categories, which categories shall not have any voting privileges. The term "Member" or "Membership" as used in the Land Use Documents shall not apply to any such additional membership categories. The By-Laws shall provide for the rights and obligations of any additional membership categories.

ARTICLE IV

PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 1. Members' Easements of Enjoyment: Subject to the provisions of Section 4 and the additional provisions of this Declaration, every Member, his agents, licensees and invitees, shall have a permanent and perpetual easement for the use and enjoyment of the Common Properties, and each easement shall be appurtenant to and shall pass with a title to every Lot or Living Unit. Such easements of enjoyment shall include but not be limited to the Members' right of ingress and egress over the streets, roadways and walkways on The Common Properties for purposes of access to a Lot or Living Unit, which right of ingress or egress shall not be subject to the fees and charges described in Section 4(a) and (d) below.

Section 2. Title to Common Properties: The Developer may retain the legal title to the Common Properties until such time as it has completed improvements thereon and until such time, as in the opinion of the Developer, the Association is able to maintain the Common Properties; but notwithstanding any provision herein, the Developer hereby covenants for itself, its successors and assigns that it

shall convey (and the Association shall accept such conveyance) the Common Properties to the Association, free and clear of all liens and encumbrances, except this Declaration, covenants and restrictions of record at the time of the conveyance of the Common Properties to the Association, the Plat and any other plan, if any, containing the Common Properties, and real and personal property taxes for the year in which the conveyance takes place, and any easements created or allowed by the terms of this Declaration, not later than the date upon which Turnover of the Association takes place.

Section 3. Vacating of Plat: The portion of the Plat containing Open Space may not be vacated in whole or in part unless the entire Plat is vacated. In the event additional plats are added to The Properties, no portion of any additional plat containing Open Space may be vacated in whole or in part unless the entire such plat is vacated.

Section 4. Limitation of Members' Easements: The rights and easements of use and enjoyment created hereby shall be subject to the following:

- (a) the right of the Developer and of the Association, in accordance with its Articles and By-Laws, to retain money for the purpose of improving the Common Properties and in aid thereof to mortgage these properties. In the event of a default upon such mortgage, the lender's rights hereunder shall be limited to a right, after taking possession of such properties, to charge admission and other fees as a condition to continue the enjoyment of such properties to a wider public until the mortgage debt is satisfied; whereupon the possession of such properties shall be returned to the Association and all rights of the Members shall be fully restored; and
- (b) the right of the Association to charge reasonable admission and other fees for the use of the Common Properties; and
- (c) the right of the Association, as provided in its Articles and By-Laws, to suspend the enjoyment rights of any Member for any period during which any assessment remains unpaid, or for a period that may be determined by the Board of Directors for any violation of this Declaration, the Association's Articles, By-Laws or published rules and regulations; and
- (d) the right of the Association to dedicate or transfer all or any part of the Common Properties to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed by the Members; provided that no such dedication or transfer, determination as to purposes or as to the conditions hereof, shall be effective unless an instrument signed by the appropriate officers of the Association certifying that a Special or Regular Meeting of Members called for such purpose, of which thirty (30) days' written notice was sent to each Member, that the vote of two-thirds (2/3) of the Members present, either in person or by proxy, was obtained, agreeing to such dedication or transfer; and

- (e) the right of the Association to grant exclusive easements and rights-of-way over certain parts of the Common Properties to Members of the Association when the Association deems it necessary; and
- (f) the right of the Developer, without approval of the Association, the mortgagee of any part of The Properties, or the Membership, to add to or delete parts of the Common Properties and to dedicate easements and rights-of-way over the Common Properties in accordance with the terms of this Declaration; and
- (g) the right of the Association to adopt and enforce at any time rules and regulations governing the use of the Common Properties and all facilities situated thereon, including the right to fine Members as provided in Article VII of this Declaration. Any rule and/or regulation so adopted shall apply until rescinded or modified as if originally set forth at length in this Declaration; and
- (h) Subject to all the provisions contained in this Section 4 with the exception of Paragraph (b), the right of those Owners described in Article I, Section 1, Paragraph (1), to the exclusive use and enjoyment of the Limited Common Properties; and
- (i) Anything to the contrary herein notwithstanding, the right of the Developer, its successors and assigns to permit persons other than Members and designated persons to use certain portions of The Properties and any recreational facilities that may be constructed thereon under such terms as Developer, its successors and assigns, may from time to time desire without interference from any other Association which may be administering part of The Properties. The right to the use and enjoyment of the Common Properties and facilities thereon shall extend to each permitted user's immediate family who reside with him, subject to regulation from time to time by the Association in its lawfully adopted and published rules and regulations.

Section 5. Utility and Irrigation Easements: There is reserved unto the Developer so long as it owns a Lot or Living Unit the right to grant reasonable easements for the installation and maintenance of temporary roads, cable television services, security system services, public utilities and irrigation systems (including the installation of irrigation pumps) on the Common Properties and The Properties in addition to those easements already reserved. This provision shall not limit the Developer's rights under Article IX, Section 15 of this Declaration.

Section 6. Easement for Governmental, Health, Sanitation and Emergency Services: A non-exclusive easement is hereby granted to the appropriate governmental authorities and to the appropriate private organizations supplying health, sanitation, police services and any emergency services such as fire, ambulance and rescue services, for purposes of ingress and egress over the Common Properties. A

non-exclusive easement over the Common Properties is hereby specifically granted to the City of Boca Raton, its agents, employees and designees, for purposes of ingress and egress to and maintenance, inspection and testing of the water quality of the Lakes.

Section 7. Limited Common Properties. The Tract and the Lot to whose Owners the exclusive use and enjoyment is restricted are as follows:

<u>Column (1)</u>	<u>Column (2)</u>
Tract (Part of Limited Common Properties) as Shown on the Plat	Lot to Whose Owners the Exclusive Use and Enjoyment of the Tract Listed in Column (1) on the Left is Restricted

SEE EXHIBIT "B" ATTACHED HERETO

ARTICLE V

COVENANT FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments: Except as hereinafter more fully provided, the Developer, for each Lot and Living Unit owned by it within The Properties, hereby covenants and each Owner of any Lot or Living Unit, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) Periodic Assessments or Charges; (2) Special Assessments for capital improvements and other expenditures that the Association deems appropriate, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The Periodic and Special Assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due.

Section 2. Purpose of Assessments: The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in The Properties and in particular for the improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Properties and of the Lots and Living Units situated upon The Properties, including but not limited to, the payment of taxes and insurance on the Common Properties, and repair, replacement, and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof.

Section 3. Date of Commencement of "Periodic Assessments": Due Dates; Assessment Period: The Periodic Assessments provided for herein shall commence as to a Lot or Living Unit on a date (which shall be the first day of the

calendar month) following the conveyance of such Lot or Living Unit by the Developer to a Class "A" Member (hereinafter called the "Commencement Date") and shall thereafter be due on the first day of every "Assessment Period" as this term is defined in the By-Laws of the Association.

Section 4. Basis and Maximum Amount of Periodic Assessments: From the Commencement Date of Periodic Assessments until the Turnover Meeting, the initial Periodic Assessments for all Class "A" Members shall be established by the Developer. Except as hereinafter provided, no assessment shall be payable by Class "B" Members.

Until the time of Turnover of the Association, the Developer shall not pay any Periodic Assessments or Special Assessments, but the Developer shall pay the difference in cost between the sum of all Periodic Assessments collected from Class "A" Members and the actual cost of operation of the Association. In the event of an increase in the actual cost of operation of the Association, the Developer may increase the Periodic Assessments prior to Turnover. Thereafter, the Developer shall not be obligated to pay a Periodic or Special Assessment on any Unimproved Lot or Living Unit. Notwithstanding any provision that may be contained to the contrary in this Declaration, the Developer may at any time commence paying assessments as to Lots or Living Units that it owns and thereby automatically terminate its obligation to fund deficits, but at any time thereafter the Developer may again elect to follow the procedures specified in the two preceding sentences.

The Board, in accordance with the requirements for a change of a Periodic Assessment as provided in this Article V, may change the budget and level of Periodic Assessments at a duly constituted meeting of the Board which occurs after the Turnover. For each twelve-month period thereafter commencing on the first day of January (hereinafter called the "Assessment Year"), the Periodic Assessments may be adjusted by vote of the Board as set forth in Section 6 of this Article.

Section 5. Special Assessments: Other than as provided in Section 11, in addition to the Periodic Assessments authorized by Section 3 hereof, the Board may levy in any Assessment Year a Special Assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto, or for other purposes deemed appropriate by the Association. The due date of any Special Assessment under this Article shall be fixed in a resolution authorizing such assessment. The Developer shall not be obligated to pay a Special Assessment levied on any Unimproved Lot or Living Unit. This Section 5 shall not be applicable to a "Special Assessment for Non-Compliance", which Special Assessment is described in Article IX, Section 3 of this Declaration.

Section 6. Change in Basis and Maximum of Periodic Assessment: Subject to the limitations of Sections 3 and 4 hereof, and for the periods therein specified, the Board may change the maximum and basis of the assessments fixed by Section 4 hereof prospectively for any such period, provided that written notice containing a copy of the newly adopted budget outlining the assessment change is sent to all Members at least thirty (30) days in advance of the effective date of the adopted change.

Section 7. Duties of the Board of Directors: The Board of Directors of the Association shall prepare a roster of The Properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the assessment for each Assessment Year shall thereupon be sent to every Owner subject thereto at least thirty (30) days prior to the commencement of the Assessment Year.

The Association shall, upon demand at any time, furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. Effect of Non-Payment of Assessment; the Personal Obligation of the Owner; the Lien; Remedies of Association; Late Fees; Resale Certificate: If the assessments are not paid on the date when due (being the dates specified in Section 3 and Section 5 hereof), then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the property which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation for the statutory period. Provided, however, that no voluntary sale of any Living Unit shall be effective, nor shall any marketable title be conveyed unless and until the Seller has obtained from the proper officers of the Association a certificate, in recordable form, attesting to the fact that the Seller has paid all assessments to date. If no such certificate is obtained and recorded, the Purchaser shall be conclusively presumed to have assumed such past-due assessments and shall become forthwith liable therefor. The Owner requesting the certificate shall pay to the Association a reasonable sum to cover the costs of examining records and preparing the certificate. If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate established by the Board of Directors not to exceed the maximum legal rate of interest, and the Association may bring an action at law against the Owner personally obligated to pay the outstanding assessments and/or bring an action to foreclose the lien against the property; and there shall be added to the amount of such assessment all costs of collection, including, but not limited to, the cost of preparing and filing the complaint in such action, the cost of any and all attorneys' fees incident to collection whether or not suit is brought, including attorneys' fees on appeal. In the event a judgment is obtained, such judgment shall include interest on the assessments as provided above and a reasonable attorneys' fee to be fixed by the Court, together with costs incident to the action.

In addition to the foregoing remedies, the Board of Directors may assess a "Late Fee" of twenty percent (20%), compounded monthly, of the delinquent assessment for each Periodic or Special Assessment which is more than ten (10) days delinquent, for the purposes of helping defray collection costs.

Section 9. Subordination of the Lien to Mortgages: The lien of the assessments provided for in this Declaration shall be subordinate to the lien of any First Mortgagee now or hereafter placed upon the Properties subject to assessment; provided, however, that a First Mortgagee of record, or other purchaser, obtains title to such property as a result of foreclosure of the lien of such First Mortgagee or as a result of a deed given in lieu of foreclosure thereof, such acquirer of title and his successors and assigns shall not be liable for the assessments by the Association chargeable to the former Owner of such property which became due and payable prior to the acquisition of title as a result of the foreclosure or deed given in lieu of foreclosure, unless such assessments are secured by a Claim of Lien for assessments that is recorded prior to the recording of such mortgage. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, or from the lien of any such subsequent assessment; provided, however, that any such assessment shall be subordinate to the lien of a First Mortgage placed upon the Properties prior to the time of the recording of such subsequent assessment lien. Provided, further, that for purposes of this Section 9, the "notice" required in Article I, Section 1(q) need not be given.

Section 10. Exempt Property: The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein: (a) all properties to the extent any easement or other interest therein is dedicated and accepted by the local public authority and devoted to the public use; (b) and any Unimproved Lot retained by the Developer after Turnover of the Association to the Class "A" Members.

Section 11. Special Assessment for Capital Improvements: Funds in excess of \$10,000.00 in any one case which are necessary for the addition of capital improvements (as distinguished from repairs and maintenance) relating to the Common Properties under the jurisdiction of the Association and which have not previously been collected as reserves or are otherwise available to the Association shall be levied by the Association as Special Assessments only upon approval of a majority of the Board of Directors of the Association or upon approval by two-thirds (2/3) favorable vote of the Members of the Association voting at a duly constituted meeting of the Association.

Section 12. Collection of Assessments of Neighborhood Associations: The Association may, at the sole discretion of the Board, collect the assessments of the Association and of any or all of the associations, if any, which shall be incorporated as Florida corporations not for profit and which shall be identified in various declarations of condominium or covenants and restrictions recorded against The Properties and which are subject to assessment by such Neighborhood Associations. The assessments of any or all of such Neighborhood Associations may, at the sole discretion of the Board, be collected as part of a lump sum charge imposed by the Association. In the event the Board elects to collect the assessments of any Neighborhood Association, that portion of the lump sum attributable to the assessments of such association shall be certified to the Association with respect to each applicable Lot or Living Unit by such Neighborhood Association(s) at least thirty (30) days prior to the applicable assessment period, and in the absence of such certification, the Association shall assume that the assessments due such Neighborhood Association(s) with respect

to any particular Lot or Living Unit are the same as the assessments previously imposed against such Lot or Living Unit by such other association(s) in the last previous assessment period for which a certification was given. The Association shall pay sums collected on behalf of Neighborhood Associations to such Neighborhood Associations within thirty (30) days of the date of receipt of such sums.

The Association may, at any time and from time to time, commence or cease collecting the assessments due the Neighborhood Associations upon sixty (60) days' prior written notice to said Neighborhood Associations, or any of them (whereupon it shall be the duty of said Neighborhood Association[s] to commence or cease such collections), and may, at any time and from time to time thereafter, again elect to make such collections as provided herein, all at the sole option of the Board.

ARTICLE VI

ARCHITECTURAL CONTROL COMMITTEE

Section 1. Members of Committee: The Architectural Control Committee, sometimes referred to in this Declaration as the "ACC" or the "ARB", shall consist of three (3) members. The initial members of the ACC shall consist of persons designated by the Developer. Each of said persons shall hold office until all Living Units planned for the Development have been constructed and conveyed, or sooner at the option of the Developer. Thereafter, each new member of the ACC shall be appointed by the Board of Directors and shall hold office until such time as he has resigned or has been removed or his successor has been appointed, as provided herein. Members of the ACC may be removed at any time without cause. The Board of Directors shall have the right to appoint and remove all members of the ACC.

Section 2. Review of Proposed Construction: Subject to Section 9 below, no building, fence, wall or other structure or improvement (including landscaping) shall be commenced, painted, erected or maintained in the Development, nor shall any addition, change or alteration visible from the exterior be made, nor shall any awning, canopy or shutter be attached to or placed upon outside walls or roofs of buildings or other improvements, until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to, and approved in writing by, the ACC (after the approval of any condominium association or Neighborhood Association, or any Architectural Control Committee thereof). The ACC shall approve proposals or plans and specifications submitted for its approval only if it deems that the construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the Development as a whole, and that the appearance of any structure affected thereby will be in harmony with the surrounding structures and is otherwise desirable. If the proposed construction, alterations or additions are to common elements of a condominium or to a portion of The Properties which are also maintained or otherwise subject to assessment by a Neighborhood Association, said approval shall also be subject to the prior approval of the Neighborhood Association. The ACC may condition its approval of proposals and plans and specifications as it deems appropriate, and may require submission of additional plans and specifications or

other information prior to approving or disapproving material submitted. The ACC may also issue rules or guidelines setting forth procedures for the submission of plans for approval. The ACC may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, floor plans, site plans, drainage plans, elevation drawings and descriptions or samples of exterior materials and colors. Until receipt by the ACC of any required plans and specifications, the ACC may postpone review of any plans submitted for approval. The ACC shall have thirty (30) days after delivery of all required materials to approve or reject any such plans, and if not rejected within such 30-day period, said plans shall be deemed approved. The ACC herein shall be the ultimate deciding body and its decisions shall take precedence over all others. All changes and alterations shall also be subject to all applicable permit requirements and to all applicable governmental laws, statutes, ordinances, rules, regulations, orders and decrees. Any decision of the ACC may be appealed to the Board within fifteen (15) days from the date of rendition of the decision of the ACC pursuant to procedures established by the Board.

Section 3. Meetings of the ACC: The ACC shall meet from time to time as necessary to perform its duties hereunder. The ACC may from time to time, by resolution unanimously adopted in writing, designate an ACC representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the ACC, except the granting of variances pursuant to Section 8 hereof. In the absence of such designation, the vote of any two (2) members of the ACC shall constitute an act of the ACC.

Section 4. No Waiver of Future Approvals: The approval of the ACC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the ACC, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters whatever subsequently or additionally submitted for approval or consent.

Section 5. Compensation of Members: The members of the ACC shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in the performance of their duties hereunder. The ACC, however, shall have the power to engage the services of professionals for compensation for purposes of aiding the ACC in carrying out its functions.

Section 6. Inspection of Work: Inspection of work and correction of defects therein shall proceed as follows:

- (a) Upon the completion of any work for which approved plans are required under this Article VI, the applicant (the "Applicant") shall give written notice of completion to the ACC.
- (b) Within sixty (60) days thereafter, the ACC or its duly authorized representative may inspect such improvement. If the ACC finds that such work was not effected in substantial compliance with the approved plans, it shall notify the Applicant in writing of such noncompliance within such sixty (60) day period, specifying the particulars of noncompliance, and shall require the Applicant to remedy the same.

- (c) If, upon the expiration of thirty (30) days from the date of such notification, the Applicant shall have failed to remedy such noncompliance, the Committee shall notify the Board in writing of such failure. The Board shall then determine whether there is a noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a noncompliance exists, the Applicant shall remedy or remove the same within a period of not more than forty-five (45) days from the date of announcement of the Board ruling. If the Applicant does not comply with the Board ruling within such period, the board, at its option, may either remove the noncomplying improvement or remedy the noncompliance, and the Applicant shall reimburse the Association, upon demand, for all expenses incurred in connection therewith. If such expenses are not promptly repaid by the Applicant to the Association, the Board shall levy a special assessment against such Applicant for reimbursement.
- (d) If for any reason the ACC fails to notify the Applicant of any noncompliance within sixty (60) days after receipt of said written notice of completion from the Applicant, the improvement shall be deemed to have been made in accordance with said approved plans.

Section 7. Non-Liability of ACC Members: Neither the ACC nor any member thereof, nor its duly authorized ACC representative, shall be liable to the Association or any condominium association or any Additional Association or to any Owner or any other person or entity for any loss, damage or injury arising out of or in any way connected with the performance or non-performance of the ACC's duties hereunder, unless due to the willful misconduct or bad faith of a member and only that member shall have any liability. The ACC shall review and approve or disapprove all plans submitted to it for any proposed improvement, alteration or addition solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to the immediate vicinity and to the Development. The ACC shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes.

Section 8. Variance: The ACC may authorize variances from compliance with any of the architectural provisions of this Declaration when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations require. Such variance must be evidenced in writing which must be signed by at least two (2) members of the ACC. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matters for which the variances were granted. The granting of such a variance shall not, however, operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and

particular provisions hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting his use of the premises, including, but not limited to, zoning ordinances and set-back lines or requirements imposed by any governmental or municipal authority, nor to obtain a similar variance from other architectural committees having jurisdiction.

Section 9. Developer's Exemption: Developer shall be exempt from the provisions hereof with respect to alterations and additions desired to be effected by Developer and shall not be obligated to obtain Committee approval for any construction or changes in construction which the Developer may elect to make at any time.

Section 10. Attorneys' Fees: For all purposes necessary to enforce this Article, the Association shall be entitled to collect reasonable attorneys' fees, court costs and other expenses against the Owner of a Lot or Living Unit, whether or not litigation is instituted, and the Board may assess such amounts in the form of a Special Assessment.

Section 11. General Powers of the Association: The Association (and the ACC, as appropriate) shall have the absolute power to veto any action taken or contemplated to be taken, and the Association shall have the absolute power to require specific action to be taken, by any Neighborhood Association created or to be created by the Developer in connection with appropriate sections of this Declaration. Without limiting the generality of the foregoing, the Association (and the ACC, as appropriate) may veto any decision of any Neighborhood Association (or architectural control or other committee thereof), and the Association may require specific maintenance or repairs or aesthetic changes to be effected, require that a proposed budget include certain items and that expenditures be made therefor, veto or cancel any contract providing for maintenance, repair or replacement of the property governed by such Neighborhood Association and otherwise require or veto any other action as the Neighborhood Association deems appropriate from time to time.

For this purpose, any proposed action not made in the ordinary day-to-day operations of the Association and not consistent with the approved practices of the Association or the ACC must first be brought to the attention of the Association by written notice and no such action shall be effected until approved by the Association or the Committee, as appropriate, in writing, but if not so approved, such proposed action shall not be effected. Any action required to be taken by the Association in a written notice to a Neighborhood Association shall be taken within the time frame set by the Association in such written notice. If the Neighborhood Association fails to comply with the requirements set forth in such written notice, the Association shall have the right to effect such action on behalf of the Neighborhood Association and shall assess the Lots governed by the Association for their pro-rata share of any expenses incurred by the Association in connection therewith, together with an administrative charge to be determined by the Association under the circumstances (to cover the Association's administrative expenses in connection with the foregoing and to discourage the Association from failing to obey the requirements of the Association). Such assessments may be collected as special assessments hereunder and shall be subject to all lien rights provided herein.

ARTICLE VII

INSURANCE

Property and Casualty Insurance on the Common Properties shall be maintained through the Association, in an amount equal to the maximum insurable value thereof. The Developer, in its sole discretion, may, at the time of the creation of a Neighborhood Association, determine that such Neighborhood Association shall obtain Property and Casualty Insurance on all Lots and Living Units governed by such Neighborhood Association; and if the Developer so elects, such insurance shall be purchased by the Neighborhood Association through a master policy covering each Lot and Living Unit within The Properties against loss or damage by fire and other hazards covered by a standard extended coverage policy, and flood insurance, if required by the Institutional First Mortgagee holding the majority of the number of mortgages on Living Units on The Properties governed by the Neighborhood Association. The Board can assess an Owner for the cost of any additional premium incurred by the Association resulting from a special hazard caused by the structure of a Living Unit. In the event of casualty loss involving a Lot or Living Unit on which the Association maintains a master insurance policy, the Association shall be the agent of all the Owners whose Lot or Living Unit was damaged by the casualty loss and shall adjust such loss on their behalf. All damaged property shall be repaired and restored to the original condition using the proceeds of the insurance. In the event that the insurance proceeds are inadequate to cover the costs of such repair and restoration, a Special Assessment shall be assessed against each Owner as provided for in this Declaration. In the event that the insurance proceeds shall be greater than the amount required to repair and restore the damage, the excess shall be deposited with the Association for the operation of the Association and/or maintenance of The Properties. Prior to the end of each policy year, the Association shall cause the insured properties to be reappraised and shall adjust the insurance coverage so that the insured properties are insured for their maximum insurable value.

In the event that the Developer creates one or more Neighborhood Associations to maintain a portion of The Properties, the insurance for such portions of The Properties shall be governed by the appropriate provisions of the declarations of condominium or the declarations of covenants and restrictions recorded against such portions of The Properties. The Board, however, in the event that it determines, in its sole judgment, that any of such associations is maintaining inadequate insurance coverage for The Properties maintained by such association, may obtain the appropriate coverage and assess the Owners who are Members of any such association with the pro-rata share of the premium for such insurance coverage.

The Association shall also purchase such other insurance as may be necessary on the Common Properties and for purposes of properly operating the Association. The Association may also purchase liability insurance covering the Association's Directors and Officers.

The premiums for all insurance policies purchased by the Association shall be deemed to be general expenses for the Association and shall be paid by the Members through the Periodic Assessments against each Lot or Living Unit, as provided in this Declaration. The method of allocation of the insurance premiums among the Owners shall be determined by the Board of Directors of the Association.

Each Owner may obtain and shall be responsible for the payment for any additional insurance such Owner desires on his Lot or Living Unit or on any personal property contained within such Living Unit or on such Lot.

ARTICLE VIII

MAINTENANCE RESPONSIBILITIES OF THE ASSOCIATION

Section 1. Preamble: The responsibility for the maintenance of The Properties is divided between the Association and the Owners. In the event that the Developer forms one or more Neighborhood Associations for the purposes described in Article VI, Section 2, some of the maintenance responsibilities of the Association may become the obligation of one or more of such associations. Interior maintenance of Living Units is the responsibility of the Owner. Maintenance of the exterior of Lots or Living Units, unless otherwise provided in this Declaration or any subsequent declaration of condominium or declaration of covenants and restrictions affecting The Properties, is the responsibility of the Owners. Unless otherwise provided in any of the declarations described in the foregoing sentence, the maintenance of the Common Properties is the responsibility of the Association in the manner provided in this Declaration. The Board of Directors has the right to require the Members to maintain their Lots or Living Units in a manner befitting the standards of the community, and this responsibility of the Owner, unless otherwise assumed by the Association in accordance with the terms of this Declaration, shall include the Member's obligation to maintain the shrubbery in a neat and trimmed manner, and to remove all objectionable debris or material as may be located on the Lot or Living Unit. After notice by the Board of Directors to correct deficient maintenance on their Lots or Living Units, if said deficiencies remain uncured, then the Board of Directors shall have the right to hire maintenance people to perform maintenance work as shall be prescribed by the Board of Directors and for this purpose the members grant unto the Board of Directors, its agents, employees, and all others designated by the Board of directors, the right to enter upon the Lot or Living Unit of the Members for the purpose of completing such maintenance work, all without liability or responsibility, criminal or civil, for trespass or any other action. The cost of such work required by the Board of Directors to cure maintenance deficiencies shall be an assessment against the Lot or Living Unit of the deficient Member as provided in Section 3 hereof.

Section 2. Exterior Maintenance Responsibility of Owner: Unless otherwise provided in this Declaration, the Association shall have no exterior maintenance responsibilities, periodic or otherwise, for Lots or Living Units. In the event any Owner has failed to maintain the exterior of his Lot or Living Unit in accordance with general standards of the community, then, after reasonable notice to the Owner specifying such failure and upon Owner's neglect or refusal to remedy the problem, the Board of Directors, in addition to maintenance upon the Common Properties, may provide any of the exterior maintenance upon each Living Unit it deems necessary in its sole discretion, including but not limited to the following: painting; repairs; replacement and care of roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks; and other exterior improvements. The cost thereof shall be assessed against the Lot or Living Unit and shall be charged to the Owner as more particularly described in Section 3 hereof.

Section 3. Assessment of Costs: The cost of exterior maintenance which is not performed by the Association as part of its regular maintenance responsibilities shall be assessed against the Lot or Living Unit upon which such maintenance is performed, and, at the option of the Board of Directors, either be added to and become part of the Periodic Assessment or charge to which such Lot or Living Unit is subject under Article V hereof, or become a Special Assessment for such expenses; and, as a part of such Periodic Assessment or charge or as a Special Assessment, it shall be a lien against the Lot or Living Unit and obligation to the Owner and shall become due and payable in all respects as provided in Article V hereof.

Section 4. Access at Reasonable Hours: For the purpose solely of performing the exterior maintenance authorized by this Article, the Association through its duly authorized agents or employees shall have the right, after reasonable notice to the Owner, to enter upon the exterior of any Lot or Living Unit at reasonable hours on any day except Sunday.

Section 5. Maintenance of Lake Worth Drainage District Lateral Canal: The Lake Worth Drainage District Lateral Canal as described on the Plat may, at the sole discretion of the Board, be (but is not hereby required to be) maintained by the Association in the manner prescribed by the South Florida Water Management District.

Section 6. Dissolution of Association: In the event of the dissolution or termination of the Association, the City of Boca Raton shall not be obligated to carry out any of the maintenance obligations of the Association unless such obligations are undertaken by way of a resolution of the City Council of the City of Boca Raton.

Section 7. Maintenance of Lakes: The Association shall be responsible for the maintenance of the Lakes and their water quality in a pollution-free and wholesome manner, and for maintenance of the bed of the Lakes to the edge of the water and the area by the edge of the water and by the top of the slope of such Lakes. Until the time of the conveyance by the Developer of title to the Common Properties to the Association, the Developer shall maintain the Lakes in accordance with the standards set forth in the preceding sentence; provided, however, that the Developer shall be entitled to reimbursement from the Association for the cost of the Developer's maintenance activities of the Lakes, as well as the costs and expenses incurred by the Developer for the purposes set forth in the remaining provisions of this Section 7. In the event that the City of Boca Raton ("City") establishes that unreasonable settling, erosion, or pollution exists in the Lake as shown on the Plat, the Developer or the Association, whichever is the title owner of record of the Lake at the time the City establishes that any of such conditions exist ("Lake Owner"), agrees to comply with the City's reasonable requests to correct the nuisance which any of these conditions has created.

Should the Developer or the Association, whichever is the Lake Owner, fail to undertake the City's required corrective action, the City shall have the power and authority to require the then owner of the Lake to undertake any and all corrective action at such owner's expense or to undertake such action at the City's own expense and to assess the Developer and/or the Association with the cost of such corrective action, which cost shall be a lien against The

Properties commencing from the time of the filing against The Properties by the City in the Public Records of Palm Beach County, Florida, of the appropriate document manifesting the City's claim, which claim shall be made in accordance with the Agreement set forth in the City's Resolution No. 271-81.

Section 8. Management Services: The Association may contract for the management of all or part of The Properties for purposes of carrying out all or a portion of the maintenance services provided for in this Declaration.

Section 9. Utility Services: The Association may contract with public or private utility companies for purposes of supplying utility services to The Properties and may assess the costs and expenses charged by such utility companies as part of the Periodic Assessments or as a Special Assessment.

Section 10. Maintenance of Masonry Walls: Any masonry walls surrounding portions of the Development shall be maintained by the Association, and a perpetual easement of ingress and egress over the Lots and Living Units abutting the masonry walls is hereby granted to the Association for purposes of construction and maintenance activities related to any such masonry walls.

Section 11. Creation of Additional Associations: As previously stated herein, it is contemplated that the Developer may establish one or more additional associations (defined in Article I of this Declaration as "Neighborhood Associations") for purposes of maintaining certain portions of the properties in the Development. In the event that any of Neighborhood Associations fails adequately to maintain the property located within the maintenance responsibility of such association, the Association shall have the right, but not the obligation, to maintain such property and to render a Special Assessment against the Lot or Living Unit located within the maintenance responsibility of the association benefitted by the maintenance performed by the Association.

Section 12. Maintenance of Limited Common Properties. Notwithstanding anything contained in Section 1 of this Article VIII to the contrary, the maintenance of that part of the Common Properties known as the "Limited Common Properties" shall be the sole obligation and responsibility of the Owners to whom the exclusive use and enjoyment of which has been restricted as set forth in Article IV, Section 7, and the purpose of the Periodic Assessments or charges shall not be for the maintenance of the Limited Common Properties, except as otherwise stated in the remainder of this Section.

In the event, however, that the Owners of a Lot do not adequately maintain (in the same manner as an Owner is required to maintain the exterior of his Lot) the Tract, the exclusive use and enjoyment of which is reserved to them, the maintenance of such Tract shall become the responsibility of the Association and shall be assessed against the Lot or Living Unit and shall be charged against the Owner in the manner described in Section 2 of this Article VIII.

ARTICLE IX

PERMITTED AND PROHIBITED USES

Section 1. Driveways: All driveways shall be maintained in the style originally established by the Developer.

Section 2. Clothes and Drying Facilities: No outside clothesline or other clothes drying facility shall be permitted in the general view and without the prior written approval of the ACC.

Section 3. Trash Containers: All trash containers and contents thereof shall be stored underground or in a screened-in area not visible from the streets or adjoining Lots. No Lot shall be used or maintained as a dumping ground for rubbish. For purposes of periodic trash removal, however, an Owner, within twenty-four (24) hours prior to pick-up, may place the covered trash containers at locations convenient for pick-up.

Section 4. Exterior Antennae: No exterior radio, television or other electronic device antennae shall be permitted on any Lot or Living Unit without the prior written approval of the ACC.

Section 5. Parking: The parking and storage of automobiles and other motor vehicles shall be limited to the driveways of Lots and other paved surfaces designated by the Association.

No commercial or recreational vehicles of any variety shall be parked or stored overnight on The Properties, unless approved by the ACC. By way of example but not limitation, this provision shall apply to boats, campers, trailers and vans except those types of vans used as an everyday vehicle other than for commercial purposes.

The Board of Directors is specifically authorized to promulgate additional rules and regulations pertaining to Parking, and the Board of Directors is specifically granted by this Declaration the right to enforce this Declaration and the rules and regulations of the Board of Directors pertaining to parking by the towing of the vehicles which are in violation.

Section 6. Signs: No sign of any nature whatsoever shall be erected or displayed upon any Lot or Living Unit except where express prior written approval of the size, shape, content and location thereof has been obtained from the ACC, which approval may be arbitrarily withheld, except that withholding of consent by the ACC for advertising and promotion of The Properties shall not be arbitrary or unreasonable.

Section 7. Additional Temporary or Permanent Structures: No structure of a temporary or permanent character, including but not limited to, basements, tents, shacks, garages, barns, or other out building shall be used or erected on any Lot without prior approval of the ACC.

Section 8. Livestock and Poultry: No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purpose of in excessive numbers.

Section 9. Commercial Activities: No Lot shall be used or occupied for any purpose other than as a residential dwelling by a Single Family, its household servants and guests. No business or commercial building shall be erected on any Lot, nor shall any business be conducted on any part thereof. This provision, however, shall not be deemed to prohibit the Association from acquiring any Lot within The Properties for such purpose as it may be deemed necessary or beneficial for the Members, including, but not limited to, recreational purposes.

Section 10. Air Conditioning Units and Reflective Materials: No window or wall air conditioning units shall be permitted to be placed in a Living Unit unless the consent of the ACC is obtained. No Living Unit shall have aluminum foil placed in any window or glass door or any reflective substance placed on any glass, except as may be approved by the ACC for energy conservation purposes.

Section 11. Leases: No portion of a Lot or Living Unit (other than an entire Lot or Living Unit) may be rented. All leases shall be restricted to occupancy by a Single Family. All leases shall be on forms approved by the Association and shall provide that the Association shall have the right to terminate the lease upon default by tenant in observing any of the provisions of this Declaration, the Articles of Incorporation and By-Laws of the Association, and applicable rules and regulations. The next five (5) sentences shall not apply to any Lots or Living Units which are governed by a Neighborhood Association. Leasing of Lots and Living Units shall also be subject to the prior written approval of the Association, which approval shall not be unreasonably withheld. No Living Unit may be leased more than twice in any calendar year; and no lease shall be approved for a term less than four (4) months. Owners wishing to lease their Lots and Living Units shall be required to place in escrow with the Association a sum as determined by the Board which may be used by the Association to repair any damage to the Common Properties or other portions of the development resulting from acts or omissions of tenants (as determined in the sole discretion of the Association). The Owner will be jointly and severally liable with the tenant to the Association for any amount in excess of such sum 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. Any balance remaining in the escrow account, less an administrative charge as determined by the Board, shall be returned to the Owner within ninety (90) days after the tenant and all subsequent tenants permanently move out. The Association is hereby deemed the agent of the Owner for purposes of bringing any eviction proceedings deemed necessary by the Association. The Association and the Owner shall both have the right to collect attorneys' fees against any occupant or tenant in the event that legal proceedings must be instituted against such occupant or tenant for his eviction or for enforcement of the Land Use Documents. The Developer is exempt from the provisions of this Section.

Section 12. Exterior Alterations: No structural changes, exterior color changes, or alterations shall be made or added to any Living Unit without approval of the ACC.

Section 13. Destruction of a Living Unit: In the event that any Living Unit is destroyed by or removed for any cause whatsoever, any replacement must be with a Living Unit of a similar size and type. The plans and specifications for any new Living Unit must be approved, in writing, by the ACC.

Section 14. Fencing: No fences or any similar type of enclosures may be erected on any Lot without the approval of the ACC.

Section 15. Exemption for Developer; Developer's Easements: The Developer, provided that it owns any Lot or Living Unit in The Properties or in the event that the Developer is doing construction work or repair work in the Subdivision encompassing The Properties, shall be exempt from the provisions of this Article IX. In addition to the property rights granted in this Declaration to the Developer, as an Owner or otherwise, the Developer is extended the right to enter upon The Properties at any time and in any way reasonably necessary to allow the Developer to construct or sell, or promote in this subdivision or any contiguous subdivision or to carry out any responsibility of the Developer to Owners in such subdivisions.

Section 16. Additional Rules and Regulations: The Developer, until Turnover, and thereafter the Board of Directors of the Association, may establish such additional rules and regulations as may be deemed for the best interests of the Association and its Members for purposes of enforcing the provisions of this Article IX.

Section 17. Variances: The Architectural Control Committee may grant variances to Use Restrictions 1 through 14, and 19 through 22, in accordance with Article VI.

Section 18. Right to Abate Violations: The Association or the Developer, prior to Turnover, and the Association thereafter, after reasonable notice and opportunity to cure a violation given to an Owner, may enter upon a Lot for the purposes of curing the violation. The cost thereof shall be charged against the Owner as a Special Assessment.

Section 19. Docks, Boats and Shoreline Contours:

- (a) No dock shall be constructed unless approved by the ARB.
- (b) No pilings may be constructed in the Water Areas.

Section 20. Swimming Pools and Tennis Courts: Any swimming pool to be constructed on any Lot shall be subject to the requirements of the ARB, which include, but are not limited to, the following:

- (a) Composition to be of material thoroughly tested and accepted by the industry for such construction;
- (b) Pool screening may not be visible from the street in front of the Living Unit; all screening material shall be of a color in harmony with the exterior of the Living Unit. No raw aluminum color screen will be allowed.

Section 21. Mailboxes: The ARB shall approve the location, size, design and material of any mailbox, paperbox or other receptacle of any kind for use in the delivery of mail, newspapers, magazines or similar material to a dwelling. In the event the United States Postal Service makes available delivery service of mail to individual dwellings located on Lots, the ARB may require that all mailboxes, paperboxes or other such receptacles previously utilized by Owners be attached to dwellings in a form and manner acceptable to the ARB.

Section 22. Awnings: No awnings, canopies or shutters, including hurricane or storm shutters, shall be attached or affixed to the exterior of any building unless such awnings, canopies or shutters have been approved by the ARB.

Section 23. Required Yards: All Required Yards and Yard Encroachments for Tract A (also referred to in Article II, Section I of this Declaration as the "Existing Property") and Tract C, both of which Tracts are identified in Exhibit "A" to this Declaration, shall have the meaning set forth in and shall comply with the requirements of Chapter 25 of the City Code of Ordinances (hereinafter in this Section 23 referred to as the "Zoning Code") of the City of Boca Raton, Florida, as amended through March, 1982, except as follows:

(i) Required Yard, Side: The Required Yard, Side, shall be ten (10) feet.

(ii) Required Yard, Rear: The Required Yard, Rear, shall be fifteen (15) feet, with permitted Yard Encroachments for a swimming pool, swimming pool deck, or screened-in patio, up to a minimum of two (2) feet from the rear yard Lot Line.

ARTICLE X

ENFORCEMENT PROVISIONS

Section 1. Rules and Regulations: The Board of Directors is specifically granted the power to pass rules and regulations for purposes of enforcing this Declaration.

Section 2. Enforcement - General: Failure of an Owner to comply with a provision in this Declaration or a provision in the By-Laws, Articles of Incorporation or Rules and Regulations of the Association shall provide the Association with the right to bring legal action in law or in equity, including but not limited to an action for injunctive relief, damages, or a combination thereof. All costs and expenses incurred by the Association in terminating or resolving a violation of this Declaration, inclusive of attorneys' fees (whether or not litigation is instituted) shall be the responsibility of the Owner determined by the Association to be in violation. Collection of such attorneys' fees may be enforced by any method in this Declaration providing for the collection of a Periodic Assessment, including but not limited to a foreclosure proceeding.

Section 3. Special Assessment for Non-Compliance: In addition to all other remedies provided in this Declaration, the Board of Directors, in its sole discretion, may levy a Special Assessment upon an Owner for failure of the Owner, his family, guests, invitees, or employees, to comply with any provision in this Declaration or the Articles, By-Laws or Rules and Regulations of the Association, provided that the following procedures are followed:

(a) Notice. The Association shall notify the Owner of the infraction or infractions.

Included in the Notice shall be the date and time of the next Board of Directors Meeting at which the Owner shall present testimony as to why the Special Assessment should not be imposed.

- (b) Hearing. The non-compliance shall be presented to the Board of Directors at the time and place provided in the Notice, at which meeting a hearing shall be conducted for purposes of obtaining testimony as to the levying of a Special Assessment in the event that it is determined that a violation has in fact occurred. A written decision of the Board of Directors shall be submitted to the Owner not later than twenty-one (21) days after the hearing.
- (c) Amount of Special Assessment. The Board of Directors may impose the following Special Assessments against the Owner of the Lot in the event a violation is found:
- (1) First Non-Compliance for Violation: A Special Assessment in an amount not in excess of \$100.00.
 - (2) Second Non-Compliance for Violation: A Special Assessment in an amount not in excess of \$500.00.
 - (3) Third and Subsequent Non-Compliance Violation or Violations which are of a Continuing Nature: A fine in an amount not in excess of \$1,000.00.
- (d) Due Date of Special Assessment. A Special Assessment as provided in this Article shall be due and owing not later than thirty (30) days after the written decision as provided in Sub-Section 3(b) above.
- (e) Enforcement of Special Assessment: Any Special Assessment levied in accordance with this Article may be enforced by the Association in the same manner as the enforcement of a Special Assessment provided for in Article V of this Declaration.

ARTICLE XI

GENERAL PROVISIONS

Section 1. Duration: The covenants and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time the covenants and restrictions contained in this Declaration shall be automatically extended for successive periods of ten (10) years unless prior to the end of such thirty (30)-year period, or each successive ten (10)-year period, an instrument signed by the then Owners of two-thirds (2/3) of

the Lots or Living Units agreeing to terminate the covenants and restrictions at the end of such thirty (30)-year or ten (10)-year period has been recorded in the Public Records of Palm Beach County. (For purposes of meeting the two-thirds [2/3] requirement, when Living Units are counted, the Lot or Lots upon which such Living Units are situated shall not be counted.) Provided, however, that no such agreement to terminate the covenants and restrictions shall be effective unless made and recorded at least ninety (90) days in advance of the effective date of such change. This Section may not be amended.

Section 2. Enforcement: Enforcement of these covenants and restrictions shall be permissible by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 3. Severability: Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 4. Amendment: This Declaration may be amended from time to time by recording among the Public Records of Palm Beach County, Florida, an instrument executed by the President and attested to by the Secretary of the Association, indicating that a Meeting called for purposes of Amendment was held, and that a majority of the votes of all Members of the Association approved of such Amendment. Provided, however, that so long as the Developer owns a Lot or Living Unit in The Properties, no such Amendment may be made without the consent of the Developer; and provided further that no such Amendment shall affect or interfere with vested property rights previously acquired by an Owner or a First Mortgagee. The complete termination of the covenants and restrictions of this Declaration is governed by Section 1 of this Article. Notwithstanding any provision contained in this Declaration to the contrary, the Developer, without the joinder or approval of the Association, the Board, the Membership, or any mortgagee of The Properties may record any amendment to this Declaration which is permitted by this Declaration to be made by the Developer without the approval of the Association, the Board, the Membership, or any mortgagee of The Properties. In any event, however, notwithstanding any other provision contained in this Article XI, this Declaration shall not be amended without the written approval of the City of Boca Raton (the "City"), in such a manner as to impair any of the obligations of the Developer, the Association or the Owners of Lots or Living Units to the City contained in Ordinances and Resolutions of the City, pursuant to which Ordinances and Resolutions development approval for The Properties was obtained from the City.

Section 5. Temporary Committees: The Developer, prior to Turnover of the Association, at its sole discretion, may create temporary committees for the purpose of aiding in the transition of the Association from Developer control to control by the Membership.

Section 6. Conflict: This Declaration shall take precedence over conflicting provisions in the Articles of Incorporation and By-Laws of the Association and the Articles shall take precedence over the By-Laws.

Section 7. Withdrawal: Anything herein to the contrary notwithstanding, the Developer reserves the absolute right to amend this Declaration at any time, without prior notice and without the consent of any person or entity, for the purpose of removing certain portions of The Properties from the provisions of this Declaration.

IN WITNESS WHEREOF, this Declaration of Covenants and Restrictions has been signed by Developer, joined by the Association, the day and year first above set forth.

Witnesses:

x Lindy J Tenser
x Cheryl A. Melka

BRAMALEA, INC.

By: [Signature] Vice President

Attest: [Signature] Gen'l. Mgr.

(Developer)

(SEAL)

Witnesses:

Lindy J Tenser
Cheryl A. Melka

PARKSIDE AT BOCA TRAIL
COMMUNITY ASSOCIATION, INC.

By: [Signature] President

Attest: [Signature]
Ronald L. Yuter
Secretary

(Association)

(SEAL)

STATE OF FLORIDA)
) ss.:
COUNTY OF PALM BEACH)

I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to take acknowledgements, GORDON L. DESON and RONALD L. YUTER, the Vice President and General Manager, respectively of BRAMALEA, INC., a Delaware corporation, to me well known to be the officers who executed and placed the Corporation's seal on the foregoing instrument and acknowledged the execution thereof to be the free act and deed of such Corporation for the uses and purposes therein mentioned.

WITNESS my hand and official seal in the county and state aforesaid this 13 day of July, 1982.

Linda J Tenser
NOTARY PUBLIC
State of Florida at Large

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXPIRES JUNE 30 1985
BONDED THRU GENERAL INS. UNDERWRITERS

STATE OF FLORIDA)
) ss.:
COUNTY OF PALM BEACH)

I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to take acknowledgements, G. L. DESON, and RONALD L. YUTER, as President and Secretary, respectively of PARKSIDE AT BOCA TRAIL COMMUNITY ASSOCIATION, INC., a Florida corporation not-for-profit, to me well known to be the officers who executed and placed the Corporation's seal on the foregoing instrument and acknowledged the execution thereof to be the free act and deed of such Corporation for the uses and purposes therein mentioned.

WITNESS my hand and official seal in the county and state aforesaid this 13 day of July, 1982.

Linda J Tenser
NOTARY PUBLIC
State of Florida at Large

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXPIRES JUNE 30 1985
BONDED THRU GENERAL INS. UNDERWRITERS

EXHIBIT "B"

SCHEDULE OF LIMITED COMMON PROPERTIES

<u>Column (1)</u>	<u>Column (2)</u>
<u>Tract (Part of Limited Common Properties) as Shown on the Plat</u>	<u>Lot to Whose Owners the Exclusive Use and Enjoyment of the Tract Listed in Column (1) on the Left is Restricted</u>
2-7	Lot 7, Block 1
2-8	Lot 8, Block 1
2-9	Lot 9, Block 1
2-10	Lot 10, Block 1
2-11	Lot 11, Block 1
2-12	Lot 12, Block 1
2-13	Lot 13, Block 1
2-14	Lot 14, Block 1
2-15	Lot 15, Block 1
2-16	Lot 16, Block 1
2-17	Lot 17, Block 1
2-18	Lot 18, Block 1
2-19	Lot 19, Block 1
2-20	Lot 20, Block 1
2-21	Lot 21, Block 1
2-22	Lot 22, Block 1
2-23	Lot 23, Block 1
2-24	Lot 24, Block 1
2-25	Lot 25, Block 1
2-26	Lot 26, Block 1
2-27	Lot 27, Block 1
2-28	Lot 28, Block 1
2-29	Lot 29, Block 1
2-30	Lot 30, Block 1
2-31	Lot 31, Block 1
2-32	Lot 32, Block 1
2-33	Lot 33, Block 1
2-34	Lot 34, Block 1
2-35	Lot 35, Block 1
2-36	Lot 36, Block 1
2-37	Lot 37, Block 1
2-38	Lot 38, Block 1
2-39	Lot 39, Block 1
2-40	Lot 40, Block 1
2-41	Lot 41, Block 1
2-42	Lot 42, Block 1
2-43	Lot 43, Block 1

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3-2	Lot 2, Block 4
3-3	Lot 3, Block 4
3-4	Lot 4, Block 4
3-5	Lot 5, Block 4
3-6	Lot 6, Block 4
5-5	Lot 5, Block 2
5-6	Lot 6, Block 2
5-7	Lot 7, Block 2
5-8	Lot 8, Block 2
5-9	Lot 9, Block 2
5-10	Lot 10, Block 2
5-11	Lot 11, Block 2
5-12	Lot 12, Block 2
5-13	Lot 13, Block 2
P19	Lot 19, Block 2
P20	Lot 20, Block 2
P21	Lot 21, Block 2
P22	Lot 22, Block 2
P23	Lot 23, Block 2
P24	Lot 24, Block 2
P25	Lot 25, Block 2
P26	Lot 26, Block 2
P27	Lot 27, Block 2
P28	Lot 28, Block 2
P29	Lot 29, Block 2
P30	Lot 30, Block 2
P31	Lot 31, Block 2
P32	Lot 32, Block 2
P33	Lot 33, Block 2
P34	Lot 34, Block 2
P35	Lot 35, Block 2
P36	Lot 36, Block 2
L1	Lot 1, Block 2
L2	Lot 2, Block 2
L3	Lot 3, Block 2
L4	Lot 4, Block 2
L5	Lot 5, Block 2
L14	Lot 14, Block 2
L15	Lot 15, Block 2
L16	Lot 16, Block 2
L17	Lot 17, Block 2
L18	Lot 18, Block 2
L19	Lot 19, Block 2
L36	Lot 36, Block 2
L37	Lot 37, Block 2
L38	Lot 38, Block 2
L39	Lot 39, Block 2
L40	Lot 40, Block 2
L41	Lot 41, Block 2
L42	Lot 42, Block 2
L43	Lot 43, Block 2

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EXHIBIT "A"

LEGAL DESCRIPTION

A Tract of land lying in Sections 26 and 35, Township 47 South, Range 42 East, Palm Beach County, Florida, said land being more particularly described as follows:

The South Half of the Southwest Quarter of the Northeast Quarter and the Southwest Quarter of the Southeast Quarter of the Northeast Quarter and the West Half of the Southeast Quarter, and the West Half of the Northeast Quarter of the Southeast Quarter in Section 26, Township 47 South, Range 42 East, Palm Beach County, Florida, all lying South of the South Right-of-Way line of Camino Real, and East of the East right-of-way line of Military Trail.

ALSO:

Tracts 3, 4, 13, and 14, Boston and Florida Atlantic Coast Land Co.'s Subdivision of Section 35, Township 47 South, Range 42 East according to the plat thereof on file in the office of the Clerk of the Circuit Court, in and for Palm Beach County, Florida, recorded in Plat Book 2, Page 63.

Excepting and less the following:

Land as described and recorded in O.R. Book 2235, Pages 1197 thru 1210; being more particularly described as Tracts A, B, C, D, G, H, Lots 282 and 283 of the Record Plat El Pomar in Plat Book 29, Pages 125 thru 129, Public Records of Palm Beach County, Florida, and the Right-of-Way for Lake Worth Drainage District Canal, Lateral Numbers 49, 50 and Canal E-3; and the Right-of-Way for Military Trail; and the Right-of-Way for S.W. 18th Street; and the Right-of-Way for S.W. 9th Street Circle; and the Right-of-Way for S.W. 9th Street; and the right-of-way for a portion of S.W. 21st Avenue.

Said Tract also more particularly described as follows:

Commencing at the Northeast corner of said Section 26; thence with a bearing of S. 00°50'22" E. along the East line of Section 26, a distance of 2320.81 feet to a point on the South Right-of-Way Line of Camino Real; thence with a bearing of S. 89°40'36" W. along said South Right-of-Way Line, a distance of 1716.21 feet to the Point of Beginning; thence with a bearing of S. 00°19'24" E., a distance of 505.64 feet to a point of curvature; thence with a curve to the Right having a radius of 25.00 feet, an arc length of 39.27 feet to a point; thence with a bearing of S. 00°19'24" E., a distance of 50.00 feet to a point; thence with a curve to the Right having an initial tangent bearing of N. 89°40'36" E., a radius of 25.00 feet, an arc length of 39.27 feet to a point of reverse curvature; thence with a curve to the Left having a radius of 375.00 feet, an arc length of 212.57 feet to a point of reverse curvature; thence with a curve to the Right having a radius of 260.00 feet, an arc length of 140.53 feet to a point; thence with a bearing of S. 01°50'00" E., a distance of 68.58 feet to a point; thence with a bearing of N. 88°10'00" E., a distance of 65.00 feet to a point; thence with a bearing of N. 01°50'00" W., a distance of 8.58 feet to a point of curvature, the last nine courses being coincident with the West, South and East Right-of-Way lines of S.W. 21st Avenue; thence with a curve to the right having a radius of 25.00 feet, an arc length of 39.27 feet to a point; thence with a bearing of N. 88°10'00" E., a distance of 20.00 feet to a point of curvature; thence with a curve to the Right having a radius of 25.00 feet, an arc length of 39.27 feet to a point; the last three courses being coincident with the Southerly Right-of-Way Line of S.W. 9th Street; thence with a bearing of S. 01°50'00" E., a distance of 70.00 feet to a point of curvature; thence with a curve to the Left having a radius of 230.00 feet, an arc length of 80.29 feet to a point; thence with a bearing of S. 21°50'00" E., a distance of 126.00 feet to a point of curvature; thence with a curve to the Right having a radius of 300.00 feet, an arc length of 112.29 feet to a point; thence with a bearing of S. 00°23'16" E., a distance of 134.00 feet to a point of curvature; thence with a curve to the Left having a radius of 190.00 feet, an arc length of 298.45

Exhibit "A" - Sheet 1

LAW OFFICES OF ALAN H. LUBITZ, P.A.

SUITE 400, SECURITY TRUST BUILDING, 700 BRICKELL AVENUE, MIAMI, FLORIDA 33131 • TEL. (305) 358-1498

B3760 P1273

feet to a point of cusp, the last six courses being coincident with the West Right-of-Way Line of S.W. 9th Street Circle; thence with a bearing of S. 89°36'44" W., a distance of 126.80 feet to a point; thence with a bearing of S. 00°48'44" E. along the East Line of the West One-Half of the Southeast One-Quarter of Section 26, a distance of 1336.68 feet to a point on the South Line of Section 26, and the North Line of Section 35; thence with a bearing of S. 02°07'18" E. along the East Line of the West One-Half of the Northeast One-Quarter of Section 35; a distance of 1269.37 feet to a point on the North Right-of-Way Line of S.W. 18th Street; thence with a bearing of S. 89°32'51" W., along said North Right-of-Way Line, a distance of 1132.02 feet to a point of curvature; thence with a curve to the Right, having a radius of 25.00 feet, an arc length of 38.50 feet to a point lying on the East Right-of-Way Line of Military Trail; thence with a bearing of N. 02°13'07" W., along said East Right-of-Way Line, said Line lying 187.50 feet East of and parallel to the North-South Quarter Line of Section 35, a distance of 1248.69 feet to a point; thence continuing along said East Right-of-Way Line of Military Trail, said Line lying 187.50 feet East of and parallel to the North-South Quarter Line of said Section 26, a distance of 3005.90 feet to a point of curvature; thence with a curve to the Right having a radius of 25.00 feet, an arc length of 39.49 feet to a point lying on the South Right-of-Way Line of Camino Real; thence with a bearing of N. 89°40'36" E. along said South Right-of-Way Line, a distance of 764.26 feet, more or less, to the Point of Beginning.

LESS the Right-of-Way for Lake Worth Drainage District Canals Lateral 49 and Lateral 50, as more particularly described in O.R. Book 2235, Pages 1209 and 1210.

Said Tract contains 99.139 Acres, more or less.

The Plat described in Article I, Section 1(t) and Article II, Section 1, is comprised of the following property, all of which property is contained in the foregoing legal description of the Development:

A tract of land lying in Sections 26 and 35, Township 47 South, Range 42 East, City of Boca Raton, Palm Beach County, Florida, Said land being a replat of a portion of the plat of El Pomar, as recorded in Plat Book 29, Pages 125 through 129 of the public records of Palm Beach County, Florida, and said Tract of land more particularly described as follows:

Commencing at the South Quarter corner of said Section 26; thence with a bearing of N. 89°11'16" E., along the South line of Section 26, a distance of 187.50 feet to the Point of Beginning; thence with a bearing of N. 00°49'31" W., along the East right-of-way line of Military Trail, said line lying 187.50 feet East of and parallel to the North-South quarter line of said Section 26, a distance 962.46 feet to a point; thence with a bearing of N. 89°10'29" E., a distance of 205.00 feet to a point; thence with a bearing of S. 00°49'31" E., a distance of 25.00 feet to a point; thence with a bearing of N. 89°10'29" E., a distance of 120.00 feet to a point; thence with bearing of N. 00°49'31" W., a distance of 255.00 feet to a point; thence with a bearing of N. 89°10'29" E., a distance of 96.18 feet to a point of curvature; thence with a curve to the left having a radius of 170.00 feet, an arc length of 285.31 feet to a point of cusp, said point lying on the Westerly right-of-way line of Lake Worth Drainage District Lateral No. 49; thence with a bearing of S. 06°59'08" E., along said Westerly right-of-way line, a distance of 436.45 feet to a point; thence with a bearing of S. 33°41'16" W., a distance of 215.31 feet to a point; thence with a bearing of S. 00°49'31" E., a distance of 472.75 feet to a point lying on the Southerly right-of-way line of Lake Worth Drainage District Lateral No. 50; thence with a bearing of S. 56°18'44" E., along said Southerly right-of-way line, a distance of 542.90 feet to a point lying on the South line of the aforesaid Section 26; thence with a bearing of N. 89°11'16" E. along said South line of Section 26, a

Exhibit "A" - Sheet 2

distance of 196.08 feet to a point; thence with a bearing of S. 02°07'18" E., a distance of 1269.37 feet to a point lying on the North right-of-way line of S.W. 18th Street; thence with a bearing of S. 89°32'51" W., along said North right-of-way line, a distance of 1132.03 feet to a point of curvature; thence with a curve to the right, having a radius of 25.00 feet, an arc length of 38.50 feet to a point lying on the east right-of-way line of Military Trail; thence with a bearing of N. 02°13'07" W., along said East right-of-way line, said line lying 187.50 feet East of and parallel to the North-South quarter line of Section 35, a distance of 1248.69 feet, more or less, to the Point of Beginning.

NOT A CERTIFIED COPY

88760 P.1276

RECORD VERIFIED
PALM BEACH COUNTY, FLA.
JOHN B. DUNKLE
CLERK CIRCUIT COURT

Exhibit "A" - Sheet 3

This instrument prepared by:
Steven G. Rappaport, Esquire
Sachs Sax Caplan
6111 Broken Sound Parkway
Suite 200
Boca Raton, FL 33487
(561) 994-4499

**CERTIFICATE OF AMENDMENT TO THE MASTER DECLARATION OF COVENANTS AND
RESTRICTIONS FOR PARKSIDE AT BOCA TRAIL**

I **HEREBY CERTIFY** that the Amendments to the Master Declaration of Covenants and Restrictions for Parkside at Boca Trail attached as Exhibit "A" to this Certificate, were duly adopted. The Master Declaration of Covenants and Restrictions for Parkside at Boca Trail is recorded in Official Record Book 3760, at Page 1236, in the Public Records of Palm Beach County. The Amended and Restated Master Declaration of Covenants and Restrictions for Parkside at Boca Trail is recorded in Official Record Book 12272, at Page 1253, in the Public Records of Palm Beach County.

DATED this 25 day of September, 2024.

WITNESSES

**PARKSIDE AT BOCA TRAIL COMMUNITY
ASSOCIATION, INC.**

[Signature]
Signature

Print Name: Shirley A. Scarborough

[Signature]
Signature

Print Name: Beth Erilsson

By: [Signature]
Craig F. Ehrnst, President

By: [Signature]
Michael Hines, Secretary

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this 25th day of September, 2024, by Craig Ehrnst, as President, and Michael Hines, as Secretary, of PARKSIDE AT BOCA TRAIL COMMUNITY ASSOCIATION, INC., a Florida Corporation, not-for-profit, on behalf of the corporation, who are personally known to me or have produced _____ as identification.

[Notary Seal]



ILYSSA B. FEIERSTEIN
Commission # HH 485420
Expires April 25, 2028

[Signature]
Notary Public

Illyssa Feierstein
Name typed, printed or stamped

My Commission Expires: 4/25/2028

EXHIBIT "A"

**AMENDMENTS TO THE MASTER DECLARATION OF COVENANTS
AND RESTRICTIONS FOR PARKSIDE AT BOCA TRAIL**

The Master Declaration of Covenants and Restrictions for Parkside at Boca Trail is recorded in Official Record Book 3760, at Page 1236, in the Public Records of Palm Beach County. The Amended and Restated Master Declaration of Covenants and Restrictions for Parkside at Boca Trail is recorded in Official Record Book 12272, at Page 1253, in the Public Records of Palm Beach County.

As indicated herein, words underlined are added and words ~~struck through~~ are deleted.

Item 1: Article I, Section (X) of the Declaration of Covenants and Restrictions for Parkside at Boca Trail ("Declaration") shall be amended as follows:

(X) "~~Single Family~~" ~~means either a single person occupying a Living Unit and maintaining a household, including not more than one authorized tenant; or two (2) or more persons related by blood, marriage, or adoption occupying a Living Unit and living together and maintaining a common household, including not more than one authorized tenant; or not more than four (4) unrelated persons occupying a unit as distinguished from a group occupying a boarding or lodging house, hotel, club or similar dwelling for group use.~~ shall mean one of the following groups of individuals, but not more than one at the same time: (i) a single person living alone; or (ii) two or more persons all of whom are related to one designated occupant of the Living Unit by blood, marriage, adoption, or legal guardianship and their foster children and up to one other unrelated person who does not pay rent or give other consideration for the privilege of staying with the family and are not the primary occupant(s) of the Living Unit; or (iii) two unrelated individuals and any children of either of them living as a single-housekeeping unit it being the intention of this provision to prohibit occupancy of a Living Unit by three or more unrelated adults while clarifying that nothing herein shall be applied or construed to permit discrimination based upon familial status, handicap, or other protected classifications under Fair Housing Laws. For purposes of the definition of Single Family, the term "related" shall refer to a spouse, parent, child, grandparent, grandchild, brother, or sister. The definition of Single Family does not include guests. A guest under this provision is defined as a person who stays with the occupant(s) for a period of less than thirty days within any rolling one-year period and who does not pay rent or give other consideration for the privilege of staying in the Living Unit and does not utilize the Living Unit as a legal address for any purpose.

Item 4: Article VII, Section 1 of the Declaration shall be amended as follows:

Section 1. Property and Casualty: Property and Casualty insurance on the ~~Common Properties~~ Clubhouse shall be maintained through the Association, in an amount equal to the maximum insurable value thereof, if available, or such other amount as reasonably determined by the Board of

Directors which is commercially available and adequate upon consultation with its insurance experts. Insurance on all other Common Properties shall be purchased by the Association as determined in the reasonable discretion of the Board, provided such coverage is commercially available and adequate upon consultation with its insurance experts. The Board shall be guided to purchase such additional insurance based on probable maximum loss and may choose to fund such potential losses through the funding of reserves. In the event of casualty loss involving a Lot or a Living Unit on which the Association maintains a master insurance policy, the association shall be the agent of all the Owners whose Lot or Living Unit was damaged by the casualty loss and shall adjust such loss on their behalf. All damaged property shall be repaired and restored to the original condition using the proceeds of the insurance. In the event that the insurance proceeds shall be greater than the amount required to repair and restore the damage, the excess shall be deposited with the Association for the operation of the Association and/or maintenance of The Properties.

Item 5: Article IX, Section 12 of the Declaration shall be amended as follows:

Section 12. Leases: ~~Only an entire Lot or Living Unit may be rented. All leases shall be restricted to occupancy by a single family. All leases shall be on forms approved by the Association and shall provide that the Association shall have the right to terminate the lease upon default by tenant in the observance of any of the provisions of this Declaration, the Articles of Incorporation, By-Laws of the Association, and applicable rules and regulations. Leasing of Lots and Living Units shall also be subject to the prior written approval of the Association, which approval shall not be unreasonably withheld. All rental agreements must be in writing and shall be subject to the prior written approval of the Association, including any and all renewals of an existing lease, which approval shall not be unreasonably withheld. All provisions of this Section 12 shall apply to all leases and any renewal of a lease. Nothing less that the entire Lot or Living Unit may be rented, and occupancy shall be restricted to that of a Single Family. In addition, there shall be no subleasing of any Lot or Living Unit. All rental agreements are subject to the terms and conditions of this Declaration, the Articles of Incorporation, By-Laws of the Association, and applicable rules and regulations. No Living Unit may be leased, including lease renewals, more than once in any calendar year; and no lease or lease renewal shall be approved for a term less than four (4) months, nor more than twelve (12) months. Owners wishing to lease their Lots and Living Units shall be required to place in escrow with the Association, prior to occupancy, a sum as determined by the Board which may be used by the Association to repair any damage to the Common Properties or other portions of the development resulting from acts or omissions of tenants (as determined in the sole discretion of the Association). The Owner will be jointly and severally liable with the tenant to the Association for any amount in excess of such sum 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. Any balance remaining in the escrow account, less an administrative charge as determined by the Board, shall be returned to the Owner within ninety (90) days after the tenant and all subsequent tenants permanently move out. The Association is hereby deemed, and each owner hereby appoints the Association as the agent of the~~

Owner for purposes of bringing any eviction, ~~ejectment or any other legal~~ proceedings deemed necessary by the Association. ~~The Association and the Owner shall both have the right to collect attorneys' fees against any occupant or tenant in the event that legal proceedings must be instituted against such occupant or tenant for his eviction or for enforcement of the Land Use Documents.~~

No Lot or Living Unit Owner who purchases a Lot or Living Unit or otherwise becomes a record title owner of a Lot or Living Unit after the effective date of this amendment (July 30, 2019) shall be entitled to lease his or her Lot until such Lot Owner has owned the Lot for a period of twelve (12) months, which twelve (12) month period shall commence upon the date such Lot Owner records the deed to such Lot or Living Unit conveying title to such Lot or Living Unit Owner. For purposes of this Section, where there is an existing tenant residing in the Lot or Living Unit under a lease agreement with the previous owner, this twelve (12) month restriction on renting shall be tolled until such time as the pre-existing lease term has expired. Such twelve (12) month restriction on leasing shall not apply to the Association, in the event the Association takes title to a Lot or Living Unit as a result of foreclosure, deed in lieu of foreclosure or otherwise. Additionally, this requirement shall not apply to the following transfers (each a "Permitted Transfer") (i) where the Lot has been transferred or otherwise conveyed to a trust or otherwise conveyed for bona fide estate planning purposes or pursuant to a bona fide estate planning device, or (ii) transfers or conveyances between spouses, including by judgment or decree of divorce.

Item 6: Article IX, Section 15 of the Declaration shall be amended as follows:

Section 15. Parking. The parking and storage of automobiles and other motor vehicles shall be limited to the driveways of Lots and other paved surfaces designated by the Association. No parking is permitted at any time on sidewalks or Swale areas of The Properties. No recreational vehicles or large multi-passenger vans or limousines of any type shall be Parked or stored on The Properties, unless approved by the Board of Directors. No commercial ~~or recreational~~ vehicles of any type shall be parked or stored overnight on The Properties, ~~unless approved by the ARB.~~ The Board of Directors shall have the right to enforce the rules and regulations pertaining to parking by causing the vehicles in violation of such rules to be towed at the vehicle Owner's risk and expense.

Item 7: Article IX, Section 23 of the Declaration shall be amended as follows:

Section 23. Vehicles. Only properly licensed ~~gasoline-powered motorized~~ vehicles, motorcycles and scooters, operated by licensed drivers are permitted to be driven on the roads in The Properties.

CFN 20220264084
OR BK 33648 PG 581
RECORDED 06/21/2022 15:06:26
Palm Beach County, Florida
AMT 10.00
DEED DOC 0.70
Joseph Abruzzo
Clerk
Pgs 0581-0584; (4Pgs)

Perpetual Exclusive Easement

FOR AND IN CONSIDERATION of the sum of Ten (\$10.00) Dollars, received by Parkside At Boca Trail Community Association, Inc., a Florida not-for-profit corporation ("Grantor"), paid by Martin A. Zucker and Tania G. Zucker, having their principal place of residence at 819 Parkside Circle North, Boca Raton, FL 33486 ("Grantee"), the Grantor does grant unto the Grantee, their heirs, successors and assigns, a Perpetual Exclusive Easement under the following terms and conditions:

1. Grantor is the fee simple title holder of the parcel of property described as follow:
See attached Exhibit A ("Easement Area")
2. The Easement Area is owned by Grantor free and clear of all mortgages, easements and encumbrances.
3. Grantee is the fee simple title holder of the following property legally described as:
Lot 21, Block 5, of BRAMALEA UNICORP, BOCA RATON - SECOND ADDITION P.U.D., according to the thereof, as recorded in Plat Book 47, Page 139, in the Public Records of Palm Beach County, Florida, (the "Benefitted Property").
4. The Easement Area and the Benefitted Property are contiguous.
5. Grantor grants unto Grantee an exclusive easement over the Easement Area for the purpose of the construction of a pool and related structures. Grantor hereby authorizes Grantee to act as its agent in submitting building permit applications with the City of Boca Raton.
6. Grantee shall have the Easement Area insured under Grantee's Homeowner's Insurance Policy and shall provide the Grantor with a copy of the Policy, with Grantor as an additional named insured.
7. The easement granted herein is exclusive, perpetual and shall run with the land. All obligations of Grantee contained herein shall bind Grantee's heirs, successors and assigns in interest.

[Signatures and Acknowledgments Appear on the Following Page]

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their proper respective Corporate Officers thereto duly authorized, and their respective Corporate Seals to be affixed, this 21 day of September, 2021.

Virginia Taylor
WITNESS Virginia Taylor

Donald White
WITNESS Donald White

PARKSIDE AT BOCA TRAIL COMMUNITY ASSOCIATION, INC.

By: [Signature]
Name: MARC ASHTON
Its PRESIDENT

STATE OF FLORIDA)

COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me by means of (X) physical presence or () online notarization this 21 day of September, 2021 by MARC ASHTON in his capacity as PRESIDENT of Parkside At Boca Trail Community Association, Inc., a Florida not-for-profit corporation, who ☒ is personally known or ☐ has produced _____ as identification.

[Notary Seal]



David J. Haag
Notary Public

Printed Name: DAVID J. HAAG

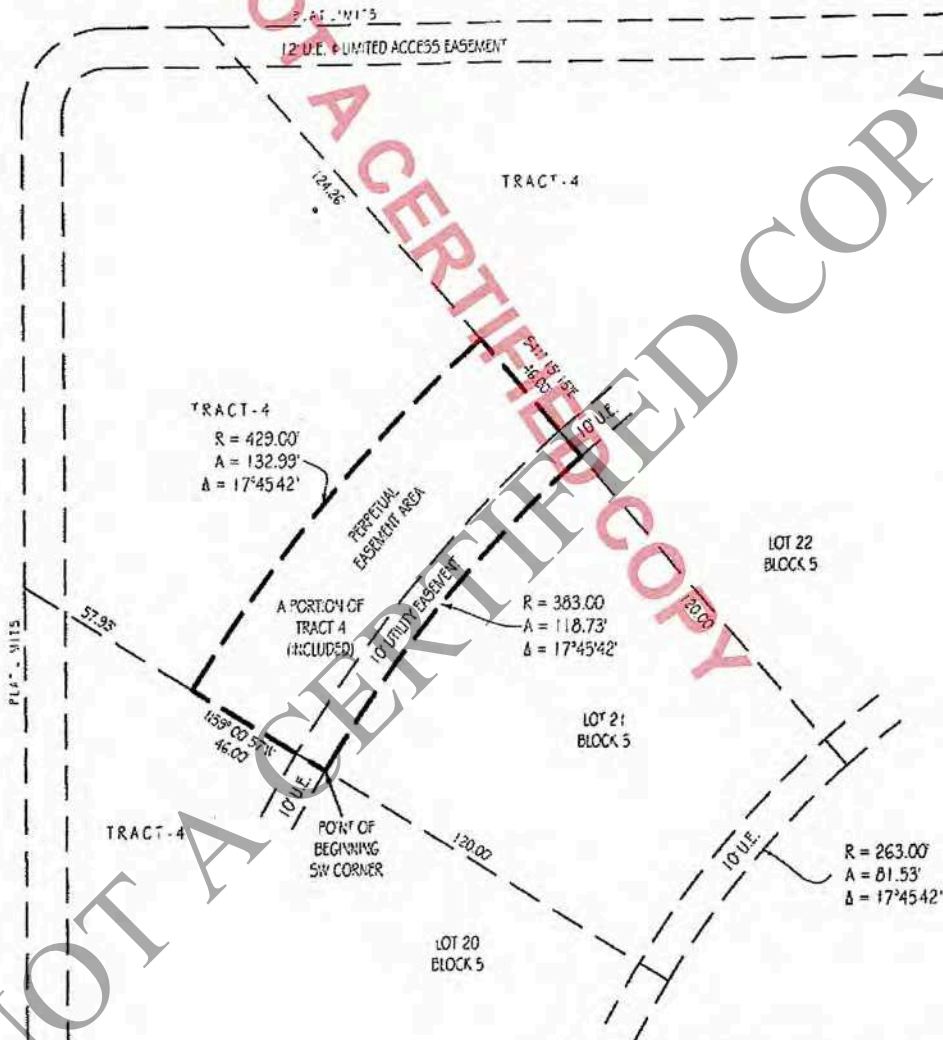
My Commission Expires: June 21, 2023

EXHIBIT "A"
EASEMENT AREA

NOT A CERTIFIED COPY



SKETCH OF DESCRIPTION
THIS IS NOT A SURVEY
PERPETUAL EASEMENT AREA



**SURVEYOR'S
CERTIFICATION:**

SKETCH OF DESCRIPTION

I HEREBY CERTIFY THAT THIS MEETS THE STANDARDS OF PRACTICE FOR SURVEYS, AS SET FORTH BY THE FLORIDA BOARD OF SURVEYORS AND MAPPERS IN CHAPTER 5J-17.051 & 5J-17.052 OF THE FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES, AND THAT THE ELECTRONIC SIGNATURE AND SEAL HEREON MEETS PROCEDURES AS SET FORTH IN CHAPTER 5J-17.062, PURSUANT TO SECTION 472.025, FLORIDA STATUTES.

LEGAL DESCRIPTION:

A PERPETUAL EASEMENT OVER, ACROSS A PORTION OF TRACT 4, BRAMALEA UNICORP, BOCA RATON - SECOND ADDITION P.U.D., ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 47, PAGE 139, IN THE PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 21, BLOCK 5, THENCE N 59°00'57\" W FOR A DISTANCE OF 46.00' TO A POINT ON A CURVE TO THE RIGHT, THENCE ALONG SAID CURVE, CONCAVE SOUTHEASTERLY, WITH A RADIUS OF 429.00', A CENTRAL ANGLE OF 17°45'42\" AND AN ARC DISTANCE OF 132.99'; THENCE S 41°15'15\" E FOR A DISTANCE OF 46.00' TO A POINT ON A CURVE TO THE LEFT, THENCE ALONG SAID CURVE, CONCAVE SOUTHEASTERLY, WITH A RADIUS OF 383.00', A CENTRAL ANGLE OF 17°45'42\" AND AN ARC DISTANCE OF 118.73' TO THE POINT OF BEGINNING.