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Palm Beach County, Florida
Sharon R. Bock, CLERK & COMPTROLLER
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This instrument prepared by
and should be returned to:
Patricia LaBerge Hartley, Esq.
Hartley & Morton, Attorneys At Law
800 Village Square Crossing, Suite 222
Palm Beach Gardens, FL 33410

**CERTIFICATE OF AMENDMENT
TO THE
DECLARATION OF RESTRICTIONS AND PROTECTIVE COVENANTS FOR RAINBERRY LAKE HOMES**

THIS CERTIFICATE OF AMENDMENT TO THE DECLARATION OF RESTRICTIONS AND PROTECTIVE COVENANTS FOR RAINBERRY LAKE HOMES is made this 2ND day of SEPTEMBER, 2015, by the President and Secretary of Rainberry Lake Homeowners Association, Inc. ("Association"), the homeowners association operating Rainberry Lake.

WITNESSETH:

WHEREAS, The Declaration of Restrictions and Protective Covenants for Rainberry Lake Homes was recorded in Official Records Book 3176, Page 860 of the Public Records of Palm Beach County, Florida (Declaration);

WHEREAS, an amendment to the Declaration was recorded in Official Records Book 4299, Page 336 of the Public Records of Palm Beach County, Florida;

WHEREAS, a First Amended and Restated Declaration of Restrictions and Protective Covenants for Rainberry Lake Homes was proposed and approved pursuant to the provisions of the Declaration, Article VIII, Section 5;

WHEREAS, all amendments to the Declaration are to be certified of record as notice to the current and future owners of the property subject to the Declaration of the contents of said amendments.

NOW, THEREFORE, the President and Secretary of the Association hereby certify the following:

1. That a meeting of the members of the Association was properly convened and conducted on SEPTEMBER 2, 2015 for the purpose of adopting the First Amended and Restated Declaration of Restrictions and Protective Covenants for Rainberry Lake Homes attached hereto and incorporated herein as Exhibit "A". At said members' meeting, the members approved and adopted the amendment set forth on attached Exhibit "A" pursuant to

the Declaration, Article VIII, Section 5 by approval of not less than two-thirds (2/3rds) of the Association's membership.

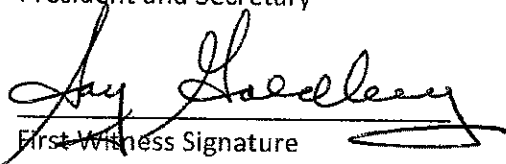
2. That the Board of Directors has unanimously approved the amendment set forth on attached Exhibit "A".

3. That the adoption of the amendment appears in the minutes of the Association and is unrevoked.

4. That the amendment to the Declaration binds the land subject to the Declaration and operates as a covenant running with the land.

Witnesses as to
President and Secretary

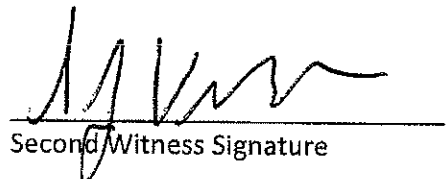
RAINBERRY LAKE HOMEOWNERS ASSOCIATION, INC.

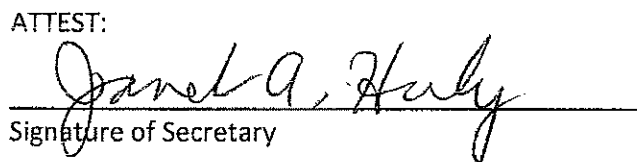

First Witness Signature

By: 
Signature of President

JAY Goldberg
Printed Name

PAULA ARIDAS
Printed Name, President


Second Witness Signature

ATTEST:

Signature of Secretary

STEPHEN VITACOLONA
Printed Name

Janet A. Huly
Printed Name, Secretary

STATE OF FLORIDA)
) SS.
COUNTY OF PALM BEACH)

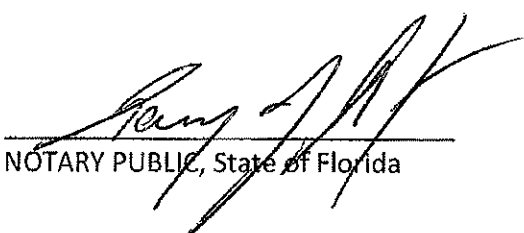
The foregoing instrument was acknowledged before me this 2nd day of SEPTEMBER 2015 by PAULA ARIDAS as President, and JANET HULY as Secretary of Rainberry Lake Homeowners Association, Inc., a Florida not-for-profit corporation,

on behalf of the Corporation. The President and Secretary of Rainberry Lake Homeowners Association, Inc. are personally known to me or have produced FL DL as identification.

SEAL



GARY J. GRANT
MY COMMISSION # FF 075262
EXPIRES: April 7, 2018
Bonded Thru Budget Notary Services


NOTARY PUBLIC, State of Florida

Egnyte/Rainberry Lake HOA/Certificate Of Amendment to Declaration-4-2015

RBL

FIRST AMENDED AND RESTATED* DECLARATION OF RESTRICTIONS AND
PROTECTIVE COVENANTS FOR RAINBERRY LAKE HOMES

THIS FIRST AMENDED AND RESTATED DECLARATION OF RESTRICTIONS AND PROTECTIVE COVENANTS FOR RAINBERRY LAKE HOMES ("Declaration") is made this 2ND day of SEPTEMBER, 2015 by the RAINBERRY LAKE HOMEOWNERS ASSOCIATION, INC., by and through its Board of Directors, and by approval of not less than two-thirds (2/3rds) of the Homes Association's membership. The original Declaration of Restrictions and Protective Covenants for Rainberry Lake Homes ("Original Declaration") was recorded on November 16, 1979 at Official Record Book 3176, Page 860 in the Public Records of Palm Beach County, Florida, and was amended by document recorded on July 18, 1984 at Official Record Book 4299, Page 336 in the Public Records of Palm Beach County, Florida. By adoption of this Declaration the Homes Association members hereby declare that this Declaration stands as the First Amended and Restated Declaration of Restrictions and Protective Covenants for Rainberry Lake Homes and it is the intention of the Homes Association members that this Declaration, as amended and restated herein, shall totally supersede and replace the Original Declaration and its 1984 amendment upon recording of this Declaration in the Public Records of Palm Beach County, Florida. The Real Property described herein in Article 2. below shall remain in all respects to be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

1. DEFINITIONS The following words, when used in this Declaration (unless the context shall prohibit), shall have the following meanings:
 - 1.1 "Homes Association" shall mean and refer to the RAINBERRY LAKE HOMEOWNERS ASSOCIATION, INC., a Florida Corporation not-for-profit. The Homes Association shall have all powers provided in this Declaration, its Bylaws, its Articles of Incorporation, and Chapters 617 and 720, Florida Statutes, as amended from time to time.
 - 1.2 "The Properties" shall mean and refer to the property described on Exhibit "A" attached to this Declaration.
 - 1.3 "Lot" shall mean and refer to any Lot within The Properties and any Lot shown upon any resubdivision of such property.
 - 1.4 "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of the fee simple title to any Lot situated upon The Properties.
 - 1.5 "Member" shall mean and refer to all those Owners who are members of the Homes Association as provided in this Declaration in Article 3. below, the First Amended and Restated Articles of Incorporation, and the First Amended and Restated Bylaws.
 - 1.6 "Developer", if referenced for historical purposes, shall mean and refer to RSM

*Substantial rewording of Original Declaration of Restrictions and Protective Covenants for Rainberry Lake Homes. See Original Declaration for prior text.

EXHIBIT "A"

DEVELOPERS & ASSOCIATES, LTD., a Florida limited partnership, together with its respective successors and assigns.

- 1.7 "Common Areas" shall mean and refer to Recreation Tracts described on Exhibit "C" attached to this Declaration, as well as the lake, canal, open space, offstreet parking areas, private streets, sidewalks, right-of-way and entrance features, but excluding any public utility installations thereon.
- 1.8 "Act" shall mean the Florida Homeowners Association Act (Chapter 720, Florida Statutes, as amended from time to time) which Act is incorporated into this Declaration by reference.

2. PROPERTY SUBJECT TO THIS DECLARATION

- 2.1 LEGAL DESCRIPTION. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in the City of Delray Beach, Palm Beach County, Florida and is more particularly described on Exhibit "A".
- 2.2 USE OF LAKE AND CANALS IN COMMON WITH OTHERS. A portion of the Common Areas is a part of the lake sometimes known as Rainberry Lake. Attached to this Declaration as Exhibit "T" is a Declaration of Use and Obligations of Rainberry Lake which governs the use and maintenance of Rainberry Lake, certain canals connecting to Rainberry Lake, and certain parcels of land abutting Rainberry Lake and the canals. No Lot Owner shall own any portion of the lake or canals.
- 2.3 USE OF CERTAIN COMMON AREAS (OTHER THAN LAKE AND CANALS) IN COMMON WITH OTHERS. Certain of the Common Areas described in Exhibit "C" in addition to a portion of the entrance roads are used by Members of the Homes Association and by Members of the Villas of Rainberry Homeowners Association, Inc. The arrangements under which these facilities are owned and used in common are set forth in Exhibit "II" Recreation Area Agreement attached to this Declaration.

3. MEMBERSHIP AND VOTING RIGHTS IN THE HOMES ASSOCIATION

- 3.1 MEMBERSHIP. Every person or entity who is a record Owner of a fee or undivided fee interest in any Lot in The Properties shall be a member of the Homes Association. Notwithstanding anything else to the contrary set forth in this Section 3.1, any such person or entity who holds such interest merely as security for the performance of any obligation shall not be a member of said Homes Association.
- 3.2 VOTING RIGHTS. Members of the Homes Association shall be all those Owners as defined in Section 3.1 herein. Members shall be entitled to one vote

for each Lot in which they hold the interest required for membership. When more than one person holds such interest or interests in any Lot, all such persons shall be members, and the vote for such Lot shall be exercised by one such member as specified in the Articles of Incorporation of the Homes Association; but in no event shall more than one vote be cast with respect to any such Lot.

4. PROPERTY RIGHTS IN THE COMMON AREAS

- 4.1 OWNERSHIP. Fee simple title to the Common Areas covered by the Recreation Area Agreement Exhibit "II" ("Recreation Areas"), has been conveyed in accordance with the Recreation Area Agreement to the Homes Association and the Villas of Rainberry Homeowners Association, Inc., as tenants in common. Beginning upon the date the Original Declaration was recorded, the Homes Association became responsible for its share of the cost of the maintenance of the Common Areas in a continuous and satisfactory manner without cost to the general tax payers of the City of Delray Beach, Florida and for the payment of its share of taxes assessed against the Common Areas and any improvements and any personal property thereon accruing from and after the date the Original Declaration was recorded. Such taxes are and shall be the responsibility of the Homes Association. All roads shown on the recorded plats of The Properties have been conveyed to the Homes Association, except that the road described on Schedule "R" attached to this Declaration has been conveyed to the Homes Association and the Villas of Rainberry Homeowners Association, Inc., as tenants in common.
- 4.2 MEMBERS' EASEMENTS. Each member of the Homes Association and each tenant, agent and invitee of such Member shall have a permanent and perpetual easement for the use of all Common Areas in common with Members of the Villas of Rainberry Homeowners Association, Inc., and in common with all other members of the Homes Association, their tenants, agents and invitees, subject to the following:
- 4.2.1 The right and duty of the Homes Association to levy assessments against each Lot for purpose of paying its share of the cost of maintaining the Common Areas and facilities in compliance with the provisions of this Declaration and with any restrictions on the various plats of The Properties from time to time recorded.
- 4.2.2 The right of the Homes Association to suspend the voting rights and right to use the Common Areas and facilities by an Owner for any period during which any monetary obligation against his Lot remains unpaid for more than ninety (90) days pursuant to Section 720.305(3) and (4), Florida Statutes, as amended from time to time.
- 4.2.3 The right of the Homes Association or the governing authorities established by Exhibits "T" and "II" to charge a reasonable admission and other fees for the use of any recreational facility situated on the Common Areas.

- 4.2.4 The right of the Homes Association or the governing authorities established by Exhibits "I" and "II" to adopt and enforce rules and regulations governing the use of the Common Areas and all facilities (including boat docks) at any time situated thereon.
- 4.2.5 The right of an Owner granted by this Declaration to the use and enjoyment of the Common Areas and facilities thereon shall extend to the Lot Owner's guests, tenants, and invitees subject to regulations referred to above. The Owner of any Lot which fronts on the lake is hereby given an easement to construct, maintain and use (with an obligation to maintain same pursuant to the regulations of the governing authorities established by Exhibit "I" or Architectural Review Board) a limited area adjacent to the Lot for purposes of a boat dock, the limited area to be as originally specified by the Developer. To the extent that any seawall extends or is located beyond the property line of a Lot separating such a Lot from a canal, said Lot Owner is hereby given an easement to erect a boat dock upon such seawall, the size and location of which shall be subject to the approval of the Architectural Review Board or other governing board established by Exhibit "I". In the event that a seawall has been constructed by the Developer located at the north end of the canal which is to be located immediately south of the 80 acre parcel referred to in Section 2.2 of Article 2. for boat docks, then the Lot Owners which have the exclusive right to use such boat docks, are hereby given an easement of access along the property immediately south of said seawall and boat docks, but such easement shall be merely used for egress and ingress by people and no boat shall be brought to or from such docks across said easement area. The easement granted herein, if any, shall be appurtenant to and pass with the title to each Lot.
- 4.2.6 The right of the Owners, their guests, tenants, and invitees for recreational use of the Common Areas in the proximity of canal walls; however, at no time may permanent structures of any kind be placed on the Common Areas within three (3) feet of any canal walls.
- 4.3 MAINTENANCE. The governing authorities established by Exhibits "I" and "II" shall at all times maintain in good repair, and shall replace as often as necessary, all improvements situated in the Common Areas as required in Exhibits "I" and "II". Maintenance of all other Common Areas and improvements situated thereon shall be performed by the Homes Association. Maintenance of the street lighting fixtures shall include payment for electricity consumed in the illumination of such lights. The Homes Association shall also be responsible for the maintenance, operation, repair and replacement of the sprinkler system which services The Properties. All work pursuant to this Section 4.3 and all other expenses hereunder which are to be paid for by the Homes Association shall be collected from Members by assessments imposed in accordance with the Declaration. However, the cost of any maintenance, repair or replacement caused by the negligent conduct of a Member or by the failure of a Member to comply with the lawfully

adopted rules and regulations of the Homes Association shall be levied as a special assessment against such Member. No Owner may waive or otherwise escape liability for the assessments for such maintenance by non-use of the Common Areas or abandonment of his right to use the Common Areas.

- 4.4 The cost of maintaining boat docking facilities shall not be part of the assessment levied upon all Members of the Homes Association. In addition to the above mentioned assessments, an additional special assessment may be levied against all of the Owners of any Lot which contains a seawall (or a portion thereof), or any Lot having a seawall at the property line or otherwise separating the Lot from a canal and such special assessment shall be charged against the Owner of said Lot in proportion to the number of linear feet of seawall on (or adjoining) the property of said Owner as same relates to the total number of linear feet of seawall erected in the entire Rainberry Lake Development. Such special assessment shall be used solely for the maintenance, repair and replacement, if necessary, of any seawall in said development, and the charge to any one Lot Owner shall be in the proportion mentioned above regardless of the amount of maintenance, repair or replacement necessary to the Lot Owner's seawall (unless such repair or replacement is made necessary by the negligence of such Lot Owner, in which event such Lot Owner shall be solely responsible for such maintenance, repair or replacement). In the event there is any portion of the seawall that is not part of any Lot or is not located adjacent to a Lot or between such Lot and a canal, then the maintenance, repair or replacement of such seawall shall be shared by all of the Lot Owners in the same manner as any other assessment is levied for maintenance of the Common Area (i.e. shared equally by all Lot Owners, except that if a portion of such seawall that is not on a Lot or adjacent to a Lot or separating said Lot from a canal, and same is used for docking privileges, then the Owners of Lots which have the exclusive use of such portion of a seawall for docking privileges shall share in any special assessment for the maintenance, repair or replacement of the seawall based on the linear feet of seawall allocated to said dock by the Developer. The cost of maintaining any boat docking facility shall be paid for by each individual Lot Owner who has either a boat docking facility on his Lot or the exclusive right to use a boat docking facility. However, in the event the maintenance of such boat docking facility is not in accordance with the rules established by the Homes Association, or the governing authority established by Exhibit "I", then the Homes Association or such governing authority shall have the right to maintain, repair or replace any such boat docking facility and assess the Lot Owner involved for the cost of same.
- 4.5 MAINTENANCE BY CITY OF DELRAY BEACH. In the event the Homes Association fails properly to maintain the Common Areas or any portion thereof in a reasonable manner, the City of Delray Beach, or other governmental agency having jurisdiction (City) shall have the right, but not the obligation, to undertake such maintenance, repair or replacement as may be necessary. The judgement of the City as to whether or not the standard of maintenance called for in this Section is being met shall be final. The right of the City shall not become effective,

however, unless written notice shall first be given to the Homes Association of the details of the intended maintenance, repairs or replacements to be undertaken by the City, and thirty (30) days shall elapse after the giving of such notice. If during such thirty (30) day notice the Homes Association shall commence and diligently pursue the completion of such maintenance, repair or replacement, then the rights of the City shall not become effective.

- 4.5.1 In the event the City shall expend any money in maintaining, repairing or replacing any part of the Common Areas pursuant to the right given to the City herein, then the City shall have the right to assess all the Owners for such expenditures in the same manner as the Homes Association would have had, except that the City shall not be subject to any monetary limit established herein. Any such assessment levied by the City shall be subject to collection by the City by any of the remedies given to the Homes Association for collection of assessments, and such assessments shall be a lien on all the land affected by this Declaration, proportionately allocated to each Owner. The lien shall secure costs of collection and a reasonable attorney fee.
- 4.6 UTILITY EASEMENTS. Public utilities may be installed underground in the Common Areas when necessary for the service of The Properties, but all use of utility easements shall be in accordance with the applicable provisions of this Declaration.
- 4.7 PUBLIC EASEMENTS. Fire, police, health, sanitation and other public service personnel and vehicles shall have a permanent and perpetual easement for ingress and egress over and across the Common Areas.
- 4.8 CABLE TELEVISION EASEMENTS. The Homes Association and/or any private cable television company selected by the Homes Association is hereby granted an easement within the public utility areas for the installation, maintenance, repair and replacement of such facilities and equipment.
- 4.9 BUFFERS. The Buffers are those portions of The Properties which run along the outer perimeter of The Properties, or adjacent to certain Streets, Drives, Roads, and/or Roadways, and are designated on the Plat. Buffers shall be maintained by the Homes Association in accordance with the provisions of this Declaration and the requirement of the appropriate governmental authorities. In order to preserve the aesthetic image of Rainberry Lake and to help maximize the Owners' use and enjoyment thereof, no improvements, landscaping or other additions and/or deletions are permitted within the Buffers without the prior written consent of the Homes Association and appropriate governmental agencies, excepting any improvements, landscaping or other additions made or installed by Developer and/or the Homes Association, such as, but not limited to, berms, landscaping, sod, signs, walkways, walls and light poles. Additionally no Owner shall be permitted to attach his fence to any fence or wall within the Buffers or to otherwise fence in or enclose any portion of the Buffers or other Homes

Association Property.

5. HOMES ASSOCIATION COVENANT FOR MAINTENANCE
ASSESSMENTS

- 5.1 CREATION OF THE LIEN AND PERSONAL OBLIGATION OF THE ASSESSMENTS. Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed, in such deed or other conveyance, shall be deemed to covenant and agree to pay to the Homes Association assessments for maintenance as provided herein; and assessments for the maintenance of the Common Areas as provided herein; including such reasonable reserves as may be deemed necessary or desirable; and special assessments as provided herein; such assessments to be fixed, established and collected from time to time as herein provided. The annual, special and other assessments, together with such interest, late fees thereon, and costs of collection thereof as hereinafter provided, shall be a charge on the Lot and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment together with such interest, late fees thereon, and costs of collection thereof as hereinafter provided, shall also be the personal obligation of the person who is the Owner of the Lot at the time when the assessment fell due. The assessments of the Homes Association, both regular and special, shall be imposed equally on all Lots except as otherwise specifically set forth herein.
- 5.2 PURPOSE OF ASSESSMENTS; SPECIAL ASSESSMENTS. The assessments levied by the Homes Association shall be used exclusively for exterior maintenance as provided herein, for maintenance of the Common Areas, and in accordance with Exhibits "I" and "II" hereof, and/or to promote the health, safety, welfare and recreational opportunities of the Members of the Homes Association, their guests, and tenants, and invitees. Funds necessary for capital improvements relating to the Common Areas may be levied as special assessments by the Homes Association in accordance with Exhibits "I" and "II" hereof, or upon approval of a majority of the Board of Directors of the Homes Association and upon approval of a majority favorable vote of Members voting at a meeting or by ballot as may be provided in the Bylaws of the Homes Association.
- 5.3 EXTERIOR MAINTENANCE: The Homes Association shall provide exterior maintenance for each building within The Properties as follows: paint, repair, and care for the exterior building surfaces (excluding repair or replacement of windows, screening, wood trim, fences, gates and roofs). The Homes Association shall maintain the existing irrigation system and sprinkler heads as originally placed on each Lot, and it shall engage a commercial landscaping company to cut grass, trim hedges and provide general landscaping care. In addition to the exterior maintenance referred to in the preceding sentence, the Homes Association shall be obligated to maintain the landscaping, trees, shrubs, walks, drives and parking places and other exterior improvements situated on the Common Properties only. Owners shall be obligated and responsible for

maintaining, repairing, and replacing landscaping, trees, shrubs, sod and the like located within the boundaries of their respective Lots. The Owner of each Lot shall maintain, repair, and replace as needed any fencing on his Lot, clean, maintain, and repair the driveway on his Lot, and keep the sidewalk located on and/or adjacent to his Lot clean and free from any stains, trash, debris, and/or impediments to pedestrian traffic. The Homes Association may, at its option, provide exterior maintenance on a Lot and levy upon the Owner on whose Lot such work is performed a special assessment equal to the cost of such additional work. The Board of Directors of the Homes Association shall estimate the cost of any such exterior maintenance for each year and shall fix the assessment for each year. Nothing contained herein shall obligate the Homes Association to make repairs or replacements of improvements on any Lot damaged by fire, windstorm, hail or other casualty. The Homes Association shall maintain the Common Properties as specified herein, and the Owners shall maintain their respective Lots, and the Homes Association shall not be responsible for expenses caused by Lot Owner's negligence.

- 5.4 ACCESS AT REASONABLE HOURS. For the purpose solely of performing the exterior maintenance authorized by this Declaration, including all of the maintenance and work permitted, the Homes Association, through its duly authorized agents or employees or independent contractors, shall have the right, after reasonable notice to the Owner, to enter upon any Lot at reasonable hours on any day except Sunday. In the event of an emergency, such right of entry shall exist without notice and on any day, including Sunday. The Homes Association and its authorized representatives shall have a right of entry onto each Lot and entry onto any Lot shall not be deemed a trespass.
- 5.5 DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS; DUE DATES. The annual assessments provided for herein shall commence on the first day of the month next following the recordation of the Original Declaration.
 - 5.5.1 The annual assessments shall be payable in advance in monthly installments, or in annual or quarter annual installments if so determined by the Board of Directors of the Homes Association.
 - 5.5.2 The amount of the annual assessment shall be as specified by the Board of Directors. The assessment shall be for the calendar year, but the amount of the annual assessment to be levied during any period shorter than a full calendar year shall be in proportion to the number of months remaining in such calendar year.
 - 5.5.3 The due date of any special assessment shall be fixed in the Board resolution authorizing such assessment
- 5.6 DUTIES OF THE BOARD OF DIRECTORS. The Board of Directors of the Homes Association shall fix the date of commencement and the amount of the assessment against each Lot subject to the Homes Association's jurisdiction for

each assessment period at least 30 days in advance of such assessment period, and shall, at that time, prepare a roster of The Properties and assessments applicable thereto which shall be kept in the office of the Homes Association and shall be open to inspection by any Owner. Written notice of the assessment shall thereupon be sent to every Owner subject thereto.

- 5.6.1 The Homes Association shall upon demand at any time furnish to any Owner liable for an assessment a certificate in writing signed by an officer of the Homes Association, setting forth whether such assessment has been paid as to any particular Lot. Such certificate shall be conclusive evidence of payment of any assessment to the Homes Association therein stated to have been paid.
- 5.6.2 TRUST FUNDS. The portion of all regular assessments collected by the Homes Association for reserves for future expenses, and the entire amount of all special assessments, shall be held by the Homes Association in trust for the Owners of all Lots, as their interests may appear.
- 5.6.3 The Homes Association, through the action of its Board Directors, shall have the power, but not the obligation, to enter into an agreement or agreements from time to time with one or more persons, firms or corporations for management services.
- 6. EFFECT OF NON-PAYMENT OF ASSESSMENT; THE PERSONAL OBLIGATION OF THE OWNER; THE LIEN; REMEDIES OF THE ASSOCIATION. If the assessments are not paid on the date when due, as set by the Board of Directors, then such assessments shall become delinquent and shall, together with interest, a late fee, and the 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, successors and assigns, and which shall become the personal obligation of the then Owner of the property, and any successor in title to such property.
 - 6.1 Any payment received by the Homes Association and accepted shall be applied first to any interest accrued, then to any administrative late fee, then to any costs and reasonable attorney fees incurred in collection, and then to the delinquent assessment pursuant to Section 720.3085(3), Florida Statutes, as amended from time to time.
 - 6.2 If the assessment is not paid within 30 days after the due date, the assessment shall incur interest at the highest rate allowed by law and a late fee not to exceed the greater of \$25.00 or 5% of the amount of each installment that is paid past the due date pursuant to Section 720.3085(3), Florida Statutes, as amended from time to time, and the Homes Association may bring an action at law or in equity against the Owner personally obligated to pay the same or may record a claim of lien against the property on which the assessment is unpaid or may foreclose the lien against the property on which the assessment is unpaid, or may pursue one or

more of such remedies at the same time or successively and there shall be added to the amount of such assessment attorneys' fees and costs of preparing collection demand letters and filing the claim of lien and the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest and late fees on the assessments as above provided and a reasonable attorney's fee to be fixed by the court together with the costs of the action, and the Homes Association shall be entitled to attorneys' fees in connection with any appeal of any such action.

6.3 If a Lot is occupied by a tenant and the Lot Owner is delinquent in paying any monetary obligation due to the Homes Association then the Homes Association may demand that the tenant pay to the Homes Association the subsequent rental payments and continue to make such payments until all the monetary obligations of the Lot Owner related to the Lot have been paid in full to the Homes Association and the Homes Association releases the tenant or until the tenant discontinues tenancy of the Lot. The Homes Association shall follow the procedures articulated in Section 720.3085(8), Florida Statutes, as amended from time to time, in the enforcement of this provision.

6.4 It shall be the legal duty and responsibility of the Homes Association to enforce payment of the assessments hereunder.

6.5 **SUBORDINATION OF THE LIEN TO MORTGAGES.** The lien of the assessment provided for in this Declaration shall be subordinate to the lien of any institutional first mortgage recorded prior to the recordation of a claim of lien for unpaid assessments. An institutional lender is defined as a state bank, federal bank, or savings and loan association, an insurance company, trust company, savings bank or credit union. The provisions of Section 720.3085(2), Florida Statutes, as amended from time to time, shall control the liability of all purchasers of Lots and specifically articulates the liability of a first mortgagee, or its successor or assignee, who acquires title to a property by foreclosure or by deed in lieu of foreclosure for unpaid assessments (or installments thereof) that became due prior to the first mortgagee's acquisition of title. At the time of recording of this Declaration a first mortgagee, or its successor or assignee as a subsequent holder of the first mortgage, who acquires title to a property by foreclosure or deed in lieu of foreclosure for the unpaid assessments that became due before the mortgagee's acquisition of title, shall be the lesser of (1) the property's unpaid common expenses and regular periodic or special assessments that accrued or came due during the 12 months immediately preceding the acquisition of title and for which payment in full has not been received by the Association, or (2) one percent (1%) of the original mortgage debt. Any changes to the Act that become effective after the recording of this Declaration shall be incorporated into this Section by this reference. The limitations on first mortgagee liability provided by the Act apply only if the first mortgagee files suit against the Lot Owner and initially joined the Homes Association as a defendant in the mortgagee foreclosure action. A Lot Owner, regardless of how his or her title to the property

has been acquired, including by purchase at a foreclosure sale or by deed in lieu of foreclosure or a tax sale, is liable for all assessments that come due while he or she is the Lot Owner. An unpaid assessment which cannot be collected in full against any Lot by reason of the provisions of this Section or Section 720.3085(2), Florida Statutes, as amended from time to time, shall be deemed to be an assessment divided among, payable by, and a lien against all Lots subject to assessment by the Homes Association, including the Lots as to which the foreclosure (or conveyance in lieu of foreclosure) took place.

7. **OCCUPANCY AND USE RESTRICTIONS.** In order to provide for congenial occupancy and for the protection of the values of The Properties, the use of The Properties shall be restricted to and shall be in accordance with the following provisions:
 - 7.1 **Occupancy.** Each residence on a Lot shall be used as a single family residence only, except as otherwise herein expressly provided. The term "temporary occupancy" as used herein shall mean occupancy of the Lot not to exceed thirty (30) days. As used herein, "family" or words of similar import shall be deemed to include a spouse, children, parents, brothers, sisters, grandchildren, or a group of natural persons related to each other by blood or legally related to each other by marriage or adoption as well as those natural persons who are parties in a domestic partnership. As used herein, "guests" or words of similar import shall include only those persons who have a principal residence other than the Lot. Unless otherwise determined by the Board of Directors of the Homes Association, a person(s) occupying a Lot for more than thirty (30) days without the Lot Owner or a member of Lot Owner's family being present shall not be deemed a guest but, rather, shall be deemed a lessee for purposes of this Declaration (regardless of whether a lease exists or rent is paid) and shall be subject to the provisions of this Declaration which apply to lessees. The purpose of this paragraph is to prohibit the circumvention of the provisions and intent of this Article 7 and the Board of Directors of the Homes Association shall enforce, and the Lot Owners shall comply with, same with due regard for such purpose.
 - 7.2 **Leases.** A Lot Owner must hold record title to a Lot for at least one (1) year before the Lot Owner may lease the residence. However, the one (1) year leasing restriction shall not apply to Lots owned by the Homes Association. No portion of a residence on a Lot (other than an entire residence) may be leased. The Homes Association must approve all lease applications and leases and lease renewals. A Lot Owner shall be prohibited from leasing his residence for more than one term within a consecutive twelve (12) month period. The minimum lease term is four (4) months and the maximum lease term is twelve (12) months. The Homes Association shall have the right to require a lease approval fee and that a substantially uniform form of lease be used and copies of all leases and lease renewals shall be provided to the Homes Association. The lease shall include a provision permitting the Homes Association authority and standing to evict any Tenant of a Lot Owner which Tenant is in breach or violation of the lease

agreement or this Declaration, the Bylaws, the Articles of Incorporation, or the rules and regulations of the Homes Association. All expenses related to the eviction of a Tenant from a Lot that may be incurred by the Homes Association shall be the sole financial responsibility of the Lot Owner who shall reimburse the Homes Association for the eviction expenses that may be incurred by the Homes Association. The lease or rental of a Lot shall not release the Lot Owner from any obligation under this Declaration, the Bylaws, the Articles of Incorporation or the rules and regulations of the Homes Association. Either the lessee or the Lot Owner shall have the right to use the facilities and Common Areas to the exclusion of the other party. Regardless of whether or not expressed in the applicable lease, if any, all Lot Owners shall be jointly and severally liable with their Tenants to the Homes Association for any amount which is required by the Homes Association to effect such repairs or to pay any claim for injury or damage to property caused by the negligence of the Tenants or for the acts and omissions of the Tenants or occupants (whether or not subject to a lease) which constitute a violation of, or non-compliance with, the provisions of this Declaration, the Bylaws, the Articles of Incorporation and the rules and regulations of the Homes Association. All leases shall comply with and be subject to the provisions of this Declaration, the Bylaws, the Articles of Incorporation, the rules and regulations of the Homes Association, and Chapter 720, Florida Statutes and the provisions of same, as amended from time to time, shall be deemed expressly incorporated into any lease of a Residential Lot. This Section 7.2 shall also apply to renewals of leases of a Residential Lot. For the purposes of this Section 7.2, a corporate Lot Owner may allow its officers, directors, designees, and employees to use the residence without it constituting a lease; provided, however, that corporate ownership may not be used to circumvent the Homes Association's governing documents controlling the leasing of Lots. The City of Delray Beach requires that each Lessor obtain a "Landlord Permit" for each rental unit. Applications for a landlord permit are available through the Building Department of the City of Delray Beach. The lessor is responsible for paying the annual fee for a Landlord Permit. Such permit shall be for one (1) year from the date of issue each year, the fee to be pro-rated quarterly. A copy of the permit must be filed with the Secretary of the Homes Association.

- 7.3 Lease Approval Procedures. All leases and lease renewals must be approved by the Homes Association pursuant to the following procedures:
 - 7.3.1 The Homes Association shall appoint two (2) Board members to review lease applications and to report their findings and to make recommendations to the Board of Directors who shall approve or disapprove all applications of Tenants for leases and lease renewals and who shall issue a certificate of approval or a certificate of disapproval for each Lease and each Lease renewal. The Owner of the Lot to be leased must provide an application form approved by the Homes Association with an agreement from the prospective lessee(s) granting permission to the Homes Association to check the credit and criminal records of the prospective lessee(s) and to check the criminal records of all other intended

occupants of the residence who are at least eighteen (18) years old. The prospective lessee(s) shall also provide to the Homes Association a non-refundable approval fee to include the expense of criminal and credit review and application processing for each prospective tenant and an approval fee to include the expense of criminal review and application processing for each other intended occupant of the residence who is at least eighteen (18) years old. The approval fee charged at the time of recording of this amendment for criminal and/or credit review and application processing for each occupant of the residence is \$100.00. However, the approval fee is subject to change over time. The Board of Directors of the Homes Association shall be empowered to change the amount of the approval fee without necessity of obtaining approval of the membership and without necessity of amending this Declaration to reflect the change in approval fee. The Homes Association reserves its right to require the personal appearance of any prospective lessee(s) and the intended occupants of the residence as a condition of approval. The Homes Association shall have up to thirty (30) days from the date of receipt of a completed application to run credit checks and criminal records checks and issue a certificate of approval or disapproval of the lease. The Homes Association shall comply with all applicable Fair Housing laws and doctrines.

- 7.3.2 A lease application package will be provided by the Homes Association which lease application package must be completed and delivered to the Homes Association along with the following documentation:

Payment to the Homes Association of an approval fee to include the expense of application processing and background checks for criminal records and credit checks for each prospective lessee and an approval fee to include the expense of application processing and background check for criminal records for each other intended occupant who is at least eighteen (18) years old. If payment is made by check, the check should be made payable to Rainberry Lake Homeowners Association, Inc.

A copy of signed lease contract.

A copy of driver's license with photo identification for all occupants of the residence who are over the age of eighteen (18).

A photo of all pets that will occupy the residence.

- 7.3.3 In the event the lease is approved by the Homes Association, the following procedures for occupancy of the Lot shall be strictly enforced by the Homes Association:

The Homes Association shall hold the Lot Owner responsible for payment of all financial obligations accruing to the Lot as a result of any action or inaction taken by the Owner and/or Tenant. In the event Tenant is in breach or violation of any

governing documents of the Homes Association, the Homes Association is entitled to evict Tenant from the residence.

In the event the Homes Association approves a lease or lease renewal, such approval shall not release the Owner from any obligations of the Owner pursuant to any governing documents of the Homes Association.

- 7.3.4 At no time will the Homes Association approve a lease or lease renewal as long as the Owner is in default of any financial obligations owed to the Homes Association including, without limitation, assessments, late fees, interest, attorney's fees, costs, and fines, or as long as the Owner is in breach or violation of any of the governing documents of the Homes Association. If good cause exists for the Homes Association to disapprove a proposed lease, the Homes Association shall not be obligated to refund the approval fees or to lease or provide a substitute Tenant for the Lot. Good cause shall include, but not be limited to, the following:

One (1) or more of the individuals seeking leasing approval, including all proposed occupants, has a felony criminal record indicating that the crimes committed threatened the health, safety and welfare of others; or

The Tenant(s) takes possession of the residence prior to approval by the Homes Association as provided for herein. In such event, the Homes Association shall commence eviction proceedings immediately to remove the Tenant(s) from the residence; or

One (1) or more of the individuals seeking approval, including all proposed occupants, has a history of disruptive behavior or disregard for the rights and property of others as evidenced by his/her conduct in the Rainberry Lake community as a Tenant, guest, Owner, or occupant of a residence; or

Information contained in background checks including, without limitation, the credit worthiness of the prospective Tenant(s), indicates that the prospective Tenant(s) may be unable to maintain the community standard for payment of monetary obligations and proper maintenance of the residence and the Lot required by residents in the community during the lease term; or

One (1) or more of the prospective Tenant(s) seeking approval has a history of financial irresponsibility which may include, without limitation, low or poor credit rating, bankruptcies and/or delinquent payment history; or

The prospective Tenant(s) or intended occupants have failed to provide the information or appearances required to process the application in a timely manner, or provided false information during the application process, or the required approval fee is not paid.

7.4 Sales Approval Procedures. All sales must be approved by the Homes Association pursuant to the following procedures:

7.4.1 The Homes Association shall appoint two (2) Board members to review sales applications and to report their findings and to make recommendations to the Board of Directors who shall approve or disapprove all applications for sales of Lots and who shall issue a certificate of approval or a certificate of disapproval for each sale. The prospective purchaser(s) of the Lot must deliver a completed application form approved by the Homes Association with a signed agreement from the prospective purchaser(s) granting permission to the Homes Association to check the credit and criminal records of the prospective purchaser(s) and to check the criminal records of all other intended occupants who are at least eighteen (18) years old. The prospective purchaser(s) shall also provide to the Homes Association a non-refundable approval fee to include the expense of criminal and credit review and application processing for each prospective purchaser and an approval fee to include the expense of criminal review and application processing for each other intended occupant of the residence who is at least eighteen (18) years old. The approval fee charged at the time of recording of this amendment for criminal and/or credit review and application processing for each occupant of the residence is \$100.00. However, the approval fee is subject to change over time. The Board of Directors of the Homes Association shall be empowered to change the amount of the approval fee without necessity of obtaining approval of the membership and without necessity of amending this Declaration to reflect the change in approval fee. The Homes Association reserves its right to require the personal appearance of any prospective purchaser(s) and the intended occupants of the residence as a condition of approval. The Homes Association shall have up to thirty (30) days from the date of receipt of a completed application to run credit checks and criminal records checks and issue a certificate of approval or disapproval of the sale. The Homes Association shall comply with all applicable Fair Housing laws and doctrines.

7.4.2 A sale application package will be provided by the Homes Association which sale application package must be completed and delivered to the Homes Association along with the following documentation:

Payment to the Homes Association of an approval fee to include the expense of application processing and background checks for criminal records and credit checks for each prospective purchaser and an approval fee to include the expense of application processing and background check for criminal records for each other intended occupant who is at least eighteen (18) years old. If payment is made by check, the check should be made payable to Rainberry Lake Homeowners Association, Inc.

A copy of the sales contract.

A copy of driver's license with photo identification for all occupants of the

residence who are over the age of eighteen (18).

A photo of all pets that will occupy the residence.

- 7.4.3 At no time will the Homes Association approve a sale as long as Owner is in default of any financial obligations owed to the Homes Association including, without limitation, assessments, late fees, interest, attorney's fees, costs, and fines, or as long as the Owner is in breach or violation of any of the governing documents of the Homes Association. If good cause exists for the Homes Association to disapprove a proposed sale, the Homes Association shall not be obligated to refund the approval fees or to purchase or provide a substitute purchaser for the Lot. Good cause shall be defined to include, but not be limited to, the following:

One (1) or more of the individuals seeking sales approval, including all proposed occupants, has a felony criminal record indicating that the crimes committed threatened the health, safety and welfare of others; or

One (1) or more of the individuals seeking approval, including all proposed occupants, has a history of disruptive behavior or disregard for the rights and property of others as evidenced by his/her conduct in the Rainberry Lake community as a Tenant, guest, Owner, or occupant of a residence; or

Information contained in background checks including, without limitation, the credit worthiness of the prospective purchaser(s), indicates that the prospective purchaser(s) may be unable to maintain the community standard for payment of monetary obligations and proper maintenance of the residence and the Lot required by residents in the community; or

One (1) or more of the prospective purchaser(s) seeking approval has a history of financial irresponsibility which may include, without limitation, low or poor credit rating, bankruptcies and/or delinquent payment history; or

In order to protect the property values in Rainberry Lake it is deemed to be reasonable and good cause for the Homes Association to disapprove a prospective sale based upon a determination by the Board of Directors, in its sole discretion, that the purchase price for the Lot sought to be purchased is depressed or below market value; or

The prospective purchaser(s) or intended occupants have failed to provide the information or appearances required to process the application in a timely manner, or provided false information during the application process, or the required approval fee is not paid.

8. GENERAL RESTRICTIVE COVENANTS

- 8.1 **APPLICABILITY.** The provisions of this Article shall be applicable to all Lots situated within The Properties.
- 8.2 **LAND USE.** No Lot shall be used except for residential purposes.
- 8.3 **CHANGE IN BUILDINGS.** No Owner shall make or permit any structural modification or alteration of any building except with the prior written consent of the Architectural Review Board or its successor, and consent may be withheld if in the sole discretion of the party requested to give consent it appears that such structural modification or alteration would affect or in any manner endanger other dwelling units. No building shall be demolished or removed without the prior written consent of the Owner of a dwelling unit with which such building was connected at the time of its construction.
- 8.4 **BUILDING LOCATION.** Buildings shall be located in conformance with the Zoning Code of the City of Delray Beach, Florida, and any specific zoning approvals thereunder, or as originally constructed on a Lot by Developer. Whenever a variance or special exception as to building location or other item has been granted by the authority designated to do so under the Zoning Code, said variance or special exception is hereby adopted as an amendment to this Section and any future variance or special exception as to building location or other item shall constitute an amendment of this Section.
- 8.5 **EASEMENTS.** Easements for installation and maintenance of utilities and for ingress and egress are reserved as shown on the recorded plats of The Properties. Within these easements indicated by dashed lines on the plats, no structure, planting or other material may be placed or permitted to remain that will interfere with the egress or ingress over same or prevent the maintenance of utilities. The area of each Lot covered by an easement and all improvements in the area shall be maintained continuously by the Owner of the Lot (or by the Homes Association, as may be provided elsewhere) except for the installations for which a public authority or utility company is responsible. Public utility companies servicing The Properties shall have a perpetual easement for the installation and maintenance of water lines, sprinkler lines, sanitary sewers, storm drains, gas lines, electric and telephone lines, cables and conduits, and television cables and conduits under and through the utility easements as shown on the plats and under and through such portions of the rear of each Lot beyond the buildings, as such buildings may from time to time be located. Any damage caused to pavement, driveways, drainage structures, sidewalks, other structures, or landscaping in the installation and maintenance of such utilities shall be promptly restored and repaired by the utility whose installation or maintenance caused the damage. All utilities within the subdivisions, whether in streets, rights-of-way or utility easements, shall be installed and maintained underground, provided, however, that water and sewer treatment facilities and control panels for utilities may be

installed and maintained above ground. The Homes Association shall have the right to use water from the lake or canals for lawn sprinkling systems.

- 8.6 **ZERO LOT LINE MAINTENANCE EASEMENT.** A permanent and perpetual non-exclusive maintenance easement exists in favor of each zero lot line Owner over the unimproved portion of the Lot adjacent to the building lines of the zero lot line home which building lines are co-extensive with the Lot lines dividing the aforesaid Lots ("Maintenance Easement"). Said Maintenance Easement shall be appurtenant to and pass with the deed or title to the subject Lots. The Maintenance Easement shall be only as extensive as reasonably necessary to permit the Lot Owners to perform required maintenance functions, but in no event greater than eighteen (18) inches in width or as may be otherwise shown as a maintenance, access or similar easement on the plat. Each Lot Owner, by acceptance of the deed or title for a Lot containing a zero Lot line home, hereby acknowledges and agrees that such Owner's Lot may not only be a Lot having rights across an adjacent Lot as hereinbefore described, but also a Lot encumbered by the easement right herein described in favor of the Lot adjacent to such Owner's Lot. Neither category of Owners shall make any improvements to their Lot, including, without limitation, the placement of fences or landscaping, which would unreasonably interfere with a Lot Owner's required maintenance functions or any other maintenance or access easements appurtenant to the adjoining Lots reserved hereby with any other easements granted by this Declaration.
- 8.7 **NUISANCES.** No dangerous, hazardous, noxious or offensive activity or excessive noise (in the sole determination of the Board of Directors) shall be carried on upon any Lot or the Common Areas, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood or any other Lot Owner.
- 8.8 **TEMPORARY STRUCTURES.** No structure of a temporary character, or trailer, tent, mobile home or recreational vehicle shall be permitted on any Lot either temporarily or permanently except as specifically permitted in this Article. No gas tank, gas container, or gas cylinder shall be permitted to be placed on or about the outside of any house or any ancillary building, and all gas tanks, gas containers, and gas cylinders shall be installed underground in every instance where gas is used, except that gas containers above ground may be used in connection with gas barbecues. In the alternative, gas containers may be placed above ground if enclosed on all sides by a decorative safety wall approved by the Architectural Review Board referred to hereinafter.
- 8.9 **SIGNS.** No sign of any kind shall be displayed to the public view on The Properties except one sign of not more than one square foot used to indicate the name of the resident, or one sign of not more than five square feet advertising the property for sale.
- 8.10 **OIL AND MINING OPERATIONS.** No oil drilling, oil development operations,

oil refining, quarrying or mining operations of any kind shall be permitted upon or in The Properties nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in The Properties. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any portion of the land subject to these restrictions.

- 8.11 PETS, LIVESTOCK AND POULTRY. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, ~~except that dogs weighing less than fifty (50) pounds~~ when full grown, cats, or other household pets may be kept, subject to rules and regulations of the Homes Association and provided that they are not kept, bred or maintained for any commercial purpose, and provided that they do not become a nuisance or annoyance to any neighbor. No dogs or other pets shall be permitted to have excretions on any Lot, or anywhere else within The Properties except in locations designated by the Homes Association in its rules and regulations.
- 8.12 VISIBILITY AT INTERSECTIONS. No obstructions to visibility at street intersections or Access Areas intersections shall be permitted.
- 8.13 ARCHITECTURAL CONTROL. No building, wall, fence or other structure or improvement of any nature shall be erected, placed or altered on any Lot until the construction plans and specifications and a plan showing the location of the structure and landscaping as may be required by the Architectural Review Board have been approved in writing by the Architectural Review Board. Each building, wall, fence, or other structure or improvement of any nature, together with the landscaping, shall be erected, placed or altered upon the premises only in accordance with the plans and specifications and plot plan so approved. The name, address, license number and proof of insurance of the contractor, as well as all required permits, must accompany all requests. Refusal of approval of plans, specifications and plot plans, or any of them, may be based on any ground, including purely aesthetic grounds, which in the sole and uncontrolled discretion of said Architectural Review Board seems sufficient. Any change in the exterior appearance of any building, wall, fence, or other structure or improvements, and any change in the appearance of the landscaping, shall be deemed an alteration requiring approval. The Architectural Review Board shall have the power to promulgate such rules and regulations as it deems necessary to carry out the provisions and intent of this Section. A majority of the Board may take any action the Board is empowered to take, may designate a representative to act for the Board, and may employ personnel and consultants to act for it. In the event of death, disability or resignation of any member of the Board, the remaining members shall have the full authority to designate a successor. The members of the Board shall not be entitled to any compensation for services performed pursuant to this covenant. The members of the Architectural Review Board shall be designated by the directors of the Homes Association. The Architectural Review Board may, upon the approval of a majority of the Board of Directors, employ outside personnel or consultants to take action for or on behalf of the

Architectural Review Board.

- 8.14 **EXTERIOR APPEARANCE AND LANDSCAPING.** The paint, coating, stain and other exterior finishing colors on all buildings, fences, or boat dock shall be maintained in accordance with the provisions of this Declaration without prior approval of the Architectural Review Board, but prior approval of the Architectural Review Board shall be necessary before any such exterior finishing color is changed. The landscaping, including without limitation, the trees, shrubs, lawn, flower beds, walkways and ground elevations, shall be maintained in accordance with this Declaration as originally installed by Developer, unless the prior approval for any substantial change is obtained from the Architectural Review Board. Aluminum foil may not be placed on windows or glass.
- 8.15 **EASEMENT TO ENTER UPON LOTS.** An easement or easements for ingress and egress in favor of the Homes Association, including the Board or the designee of the Board, to enter upon the Lots for the purposes of fulfilling its duties and responsibilities of Ownership, maintenance and/or repair in accordance with this Declaration including, by way of example, the making of such repairs, maintenance or reconstruction as are necessary for the Homes Association property and to maintain any Lot in the event the Owner fails to do so. The Homes Association and its authorized representatives shall have a right of entry onto each Lot and entry onto any Lot shall not be deemed a trespass.
- 8.16 **PARKING:** There will be no parking on the grass on any Lot or Common Area. No overnight parking on the street is allowed. There will be no parking of commercial vehicles, (defined as those having any type of signage, more than two axels or unable to fit in a standard garage in this community). Campers, mobile homes, recreational vehicles, boats, house trailers, and boat trailers of every other description shall not be permitted to be parked or to be stored at any place on any Lot. This prohibition of parking shall not apply to temporary parking of trucks or commercial vehicles, such as for pick-up, delivery or other commercial services. No auto or other vehicle repair work shall be performed on any Lot or Common Area, except in cases of emergency. No disabled vehicle shall be left on any Lot or Common Area for more than 24 hours. Warehousing of any vehicle on any Lot is prohibited.
- 8.17 **FENCES:** No fences, walls or other structures shall be erected in the front yard, back yard, or side yard setback areas, except as originally installed by Developer and except as any may be approved by the Architectural Review Board as above provided.
- 8.18 **GARBAGE AND TRASH DISPOSAL.** No garbage, refuse, trash or rubbish shall be deposited on any Lot except in a walled-in area; provided, however, that the requirements from time to time of the City of Delray Beach for disposal or collection shall be complied with. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

- 8.19 DRYING AREAS: No clothing, laundry, or wash shall be dried on any portion of any Lot in an area exposed to view from any other Lot or street or Common Area.
- 8.20 GARAGE DOORS, ATHLETIC EQUIPMENT, CARRIAGES, BIKES, SATELLITE DISHES, ETC. Garage doors shall be left in a closed position at all times except when a vehicle is to enter or exit from the garage. Bikes, carriages and other toys or similar equipment shall be stored in the garage or other area not in view from the street. No basketball hoop or other athletic equipment shall be installed in front of any residence. No television or radio antenna may be installed on the exterior of any residence. Satellite dishes measuring one (1) meter (39.37 inches) or less in diameter may be installed on the exterior of a home or Lot, provided that such satellite dish must be painted to match the exterior color of the home, if such painting will not unreasonably interfere with receipt of acceptable reception.
- 8.21 FINES. In the event a Lot Owner, Lot tenant, guest, invitee, or any other Lot occupant fails to observe and perform any of the provisions of this Declaration, the Bylaws, the Articles of Incorporation, or applicable Rules and Regulations of the Homes Association in the manner required, the Homes Association shall have the right to impose a fine against the Lot Owner, Lot tenant, guest, invitee, or any other Lot occupant and the Lot. The amount of any fine shall be determined in compliance with Section 720.305(2), Florida Statutes, as amended from time to time. The Homes Association shall comply with the notice and hearing requirements of the Act prior to the imposition of any fines.
9. PARTY WALLS.
- 9.1 GENERAL. Each wall built as part of the original construction of any semi-attached dwelling upon The Properties and placed on the dividing line between the Lots thereof shall constitute a party wall which stands on his own Lot, with a cross-easement of support in the other portion.
- 9.2 SHARING OF REPAIR AND MAINTENANCE. The costs of reasonable repair and maintenance of a party wall shall be shared equally by the Owners who make use of the wall.
- 9.3 DESTRUCTION BY FIRE OR OTHER CASUALTY. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore the same, but no greater dimension of said party wall, or of any extension, or restoration, thereof, shall be placed upon the land of the other Owner not extending, constructing, or restoring, said party wall beyond that existing prior to such fire or other casualty, without the written consent of the latter first obtained; no part of any addition to the dimensions of said party wall, or of any extension thereof already built, that may be made by any of said Owners, or by those claiming under them respectively, shall be placed upon the

land of the other Owner, without the written consent of the latter first obtained. If the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owner to call for a larger contribution for the others under any rule of law regarding liability for negligent or willful acts or omissions.

- 9.4 WEATHER PROOFING. Notwithstanding any other provisions of this Article, any Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.
- 9.5 RIGHT TO CONTRIBUTION RUNS WITH LAND. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.
- 9.6 ARBITRATION. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbiter, and such arbiters shall choose one additional arbiter, and the decision of a majority of all the arbiters shall be final and conclusive of the question involved.
10. GENERAL PROVISIONS
- 10.1 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 Homes Association. The Homes Association, and the Owners of any land subject to this Declaration, and their respective legal representatives, heirs, successors, and assigns, shall be bound by these restrictions for a term of 99 years from the date the Original Declaration was recorded, after which time said covenants shall be automatically extended for successive periods of ten years each unless an instrument approved by the then Owners of a majority of the Lots has been recorded, agreeing to change said covenants and restrictions in whole or in part.
- 10.2 NOTICE. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when personally delivered or mailed, postage prepaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.
- 10.3 ENFORCEMENT. Enforcement of these covenants and restrictions shall be 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 Homes 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. These covenants may also be enforced by the Architectural Review Board. The prevailing party in any covenant enforcement

litigation shall be entitled to reimbursement of its attorney's fees and costs from the non-prevailing party, including appeals.

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

10.5 AMENDMENT: In addition to any other manner herein provided for the amendment of this Declaration, the covenants, restrictions, easements, charges and liens of this agreement may be amended, changed, added to, derogated, or deleted at any time and from time to time upon the execution and recordation of any instruments approved by Owners holding not less than a majority vote of the membership in the Homes Association. Notwithstanding the foregoing provisions, no amendment affecting any provision hereof which was required by the Ordinances of the City of Delray Beach shall be effective without the written consent of the City of Delray Beach.

10.6 EFFECTIVE DATE. This Declaration shall become effective upon its recordation in the Palm Beach County Public Records.

EXECUTED as of the date first above written.

Witnesses as to
President and Secretary

RAINBERRY LAKE HOMEOWNERS
ASSOCIATION, INC.

First Witness Signature

Signature of President

Printed Name

Printed Name

, President

Second Witness Signature

ATTEST:

Signature of Secretary

Printed Name

Printed Name

, Secretary

STATE OF FLORIDA)
) ss
COUNTY OF PALM BEACH)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared PAULA ARZDAS as President of Rainberry Lake Homeowners Association, a Florida not-for-profit corporation, on behalf of the Corporation. The President is personally known to me or has produced JANET HULL as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 2nd day of SEPTEMBER, 2015.

(Seal)



GARY J. GRANT
MY COMMISSION # FF 075262
EXPIRES: April 7, 2018
Bonded Thru Budget Notary Services

Gary J. Grant
Notary Public

STATE OF FLORIDA)
) ss
COUNTY OF PALM BEACH)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared JANET HULL as Secretary of Rainberry Lake Homeowners Association, a Florida not-for-profit corporation, on behalf of the Corporation. The Secretary is personally known to me or has produced FL DL as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 2nd day of SEPTEMBER, 2015.

(Seal)



GARY J. GRANT
MY COMMISSION # FF 075262
EXPIRES: April 7, 2018
Bonded Thru Budget Notary Services

Gary J. Grant
Notary Public

Egnyte/Rainberry Lake HOA/First A & R Declaration