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AMENDED AND RESTATED  
DECLARATION OF RESTRICTIONS  
FOR

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WESTON POINTE ASSOCIATION, INC.

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415 ✓

Dated: March 21, 1995

RECORD/RETURN TO:  
PETER Z. SKOKOS, ESQ.  
BROWN CLARK & WALTERS, P.A.  
P.O. Box 49887  
SARASOTA, FL 34230-6887

AMENDED AND RESTATED  
DECLARATION OF RESTRICTIONS  
FOR  
WESTON POINTE

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Exhibit A - Articles of Incorporation of Association

Exhibit B - Bylaws of Association

AMENDED AND RESTATED  
DECLARATION OF RESTRICTIONS  
FOR  
WESTON POINTE

THIS AMENDED AND RESTATED DECLARATION is made and executed this 21 day of MARCH, 1995, by WESTON POINTE ASSOCIATION, INC., a Florida not-for-profit corporation, hereinafter called "Association,"

WITNESSETH:

WHEREAS, WESTON POINTE ASSOCIATION, INC., "Developer" was the owner of the following described property lying and being in the County of Sarasota, State of Florida, to-wit:

WESTON POINTE, as per plat thereof recorded in Plat Book 35,  
Page 37, Public Records of Sarasota County, Florida.

which property is hereinafter called the "subdivision;; and

WHEREAS, Developer improved the lots in the subdivision by constructing thereon residential dwelling units,

WHEREAS, Developer established protective covenants covering the development, improvement, and usage of the property in the subdivision for the benefit and protection of all owners thereof pursuant to that Declaration of Restrictions for Weston Pointe recorded in Official Records Book 2543, Page 2189 of the Public Records of Sarasota County, Florida ("Declaration").

WHEREAS, the Developer has turned over control of the Association (as hereinafter defined) to the lot owners who now desire to amend and restate the Declaration as hereinafter set forth

NOW, THEREFORE, The Association does hereby declare that all property in the subdivision shall hereafter be subject to the following provisions, restrictions, reservations, covenants, conditions and easements:

1. **ASSOCIATION.** Except as may be otherwise provided by the terms hereof, responsibility for the operation, management, and maintenance of the subdivision shall be vested in an incorporated association known as Weston Pointe Association, Inc., a Florida corporation not for profit, hereinafter called the "Association." The primary purpose of the

Association shall be to maintain the Association Property and Common Improvements as hereinafter defined, enforce the provisions of this Declaration wherever applicable and appropriate, and perform such other duties as may be assigned to it under the terms hereof or under its Articles of Incorporation and Bylaws. All persons owning a vested present interest in the fee title to any of the subdivision lots, which interest is evidenced by a proper instrument duly recorded in the Public Records of Sarasota County, shall automatically be members of the Association, and their respective memberships shall terminate as their vested interest in the fee title terminates. A copy of the Amended and Restated Articles of Incorporation of the Association which shall be filed with the Secretary of the State of Florida is attached hereto as Exhibit A. A copy of the Amended and Restated Bylaws governing the operation of the Association is attached hereto as Exhibit B. The Association shall have all of the rights and powers provided by the Florida corporation statutes, the Articles of Incorporation, the Bylaws, and this Declaration.

2. **VOTING RIGHTS.** Each lot shall be entitled to one vote at Association meetings, except as otherwise provided in the Association's Articles of Incorporation.

3. **BAY ISLE COVENANTS.** This subdivision is an integral part of a larger development known as "Bay Isles." Bay Isles is being developed by Arvida/JMB Partners, successor to Arvida Corporation (collectively "Arvida"), as a planned unit development pursuant to an Outline Development Plan heretofore approved by the Town of Longboat Key in accordance with the Town's planned unit development ordinances, as such plan may be changed or modified by Arvida from time to time hereafter. In connection with such development, certain land areas, referred to in the Maintenance Covenants described below as "Common Areas," will from time to time be set aside by Arvida or deeded to Bay Isles Association, Inc., a Florida corporation not for profit (hereinafter referred to as "Bay Isles Association"), as a portion of the required open space of the development and will thereupon become available for the common use, enjoyment, or benefit of all property owners in Bay Isles. The Common Areas may include, by way of illustration and not by way of limitation, private roads, waterways, lakes, ponds, bicycle and other paths, walkways, parks, and other open areas. The Common Areas will be designated as such either on plats or in other documents which will be recorded from time to time by Arvida. Ownership of other open space areas in Bay Isles such as the golf course, tennis courts, and marina may be retained by Arvida or Arvida's successors in title.

The purpose of Bay Isles Association is to own, improve, maintain, and manage the Common Areas of Bay Isles and to conduct the affairs of the planned unit development in accordance with its Articles of Incorporation and Bylaws and the "Declaration of Maintenance Covenants and Restrictions on the Commons for Bay Isles" (the "Maintenance Covenants") recorded in Official Records Book 1116, Page 1858, Public Records of Sarasota County, Florida, as the same may be amended from time to time, and in accordance with any and all applicable ordinances of the Town of Longboat Key regulating planned unit developments. Membership of each lot owner in this subdivision in Bay Isles Association is hereby stated and recognized to be a necessary and essential part of the orderly



development of Bay Isles as a planned unit development. Therefore, all lot owners in this subdivision shall be required to become members of the Bay Isles Association and to maintain such membership in good standing.

Bay Isles Association shall have the right to levy assessments for maintenance purposes and other lawful purposes and to enforce collection thereof by placing liens against the lots in this subdivision. The Maintenance Covenants authorize Bay Isles Association to enter into an arrangement with condominium and subdivision associations in Bay Isles for the collection of the annual maintenance assessment levied by Bay Isles Association. In the event of such request, the Association will undertake such collection duties.

Bay Isles Association also has the authority to relocate the entrance guardhouse and gates nearest the project (currently on Bay Isles Road just before the Harbourside Drive intersection) to a point on Harbourside Drive northerly of and beyond the subdivision entrance without any liability to Association or its members. Association is deemed to approve this relocation should it occur. If the Association members would then desire to install a guard gate at the subdivision entrance, the cost of installation and operation thereof would be an Association expense and not an expense of the Bay Isles Association.

4. **ASSOCIATION PROPERTY.** Under the terms of the Maintenance Covenants, certain land areas, referred to in the Maintenance Covenants as "Neighborhood Common Areas", may be set aside by the developer of a subdivision or condominium in Bay Isles for the common use and enjoyment only of the owners of property in such designated subdivision or condominium. The Neighborhood Common Areas are to be designated as such either on plats or in other documents recorded from time to time by the respective subdivision or condominium developer. Developer hereby designates Tracts "6A" and "6C" in the subdivision as Neighborhood Common Area for the common use and benefit of all owners of lots within the subdivision.

Developer shall construct a paved roadway known as Weston Pointe Court on Tract "6C" to provide access for the lot owners to Harbourside Drive. Developer shall install landscaping on the unpaved portions of Tract "6C". Tract "6C" constitutes a "limited private road" under the terms of the Maintenance Covenants, the use of which shall be limited to the lot owners and such other persons as are authorized by the Maintenance Covenants.

Every lot owner shall have the nonexclusive right to use and enjoy Tract "6A" and the improvements constructed thereon as and when made available for general usage by Developer, subject to the provisions hereof.

Responsibility for maintenance of Tracts "6A" and "6C" and any improvements constructed by Developer thereon shall remain in Developer until Developer makes such portion available for general usage by the lot owners. When any such portion is made available for general usage by the lot owners the Association shall assume the expense of

maintaining same. Developer shall convey title to Tracts "6A" and "6C" to the Association no later than the date of the "turnover" meeting of members of the Association as described in the Association's Articles of Incorporation.

Tracts "6A" and "6C" and the improvements constructed by Developer thereon are sometimes referred to herein as the "Association Property." The term "Association Property" shall also include any additional real or personal property acquired from time to time by the Association.

5. **LOT DEVELOPMENT PLAN.** Prior to the initial conveyance by Developer of title to any lot in the subdivision, Developer shall construct on the lot (or in some cases combined, adjoining lots) a residential dwelling unit, together with such associated improvements as Developer may be contractually obligated to provide or as Developer may otherwise deem appropriate. The unit and such other improvements are referred to herein collectively as the "Lot Improvements." Lot Improvements, in turn, are categorized herein as "Owner Improvements" or "Common Improvements," according to the provisions of Paragraphs 6 and 7.

Developer intends to construct the residential dwelling units on the lots in accordance with the following development plan. Units will be constructed as a detached building containing a single unit located on a single lot. Units may be constructed as a detached building containing a single unit located on two combined adjoining lots. By controlling the arrangement and construction of the units, Developer intends to provide a harmonious exterior appearance and design for all of the units in the subdivision.

The obligation of Developer to construct a residential dwelling unit on a lot (or lots, where Developer constructs a unit or two combined, adjoining lots) prior to the initial conveyance of same shall not apply to a conveyance of a lot to a party who succeeds to the rights and obligations of Developer hereunder. Except as Developer may otherwise expressly provide by Contract, the construction, development, and sale by Developer of the lots, units, and other property and improvements in the subdivision is without warranty, and NO WARRANTIES OF FITNESS, HABITABILITY, OR MERCHANTABILITY AS TO ANY PORTION OF THE SUBDIVISION PROPERTY OR IMPROVEMENTS CONSTRUCTED BY DEVELOPER THEREON OR IN CONNECTION THEREWITH SHALL BE IMPLIED.

6. **OWNER IMPROVEMENTS.** As used herein, the Owner Improvements on a lot shall mean:

(a) all improvements constructed by Developer on the lot, other than: facilities serving more than one unit or the Association Property; and electrical apparatus and wiring, plumbing pipes and apparatus, and other ducts, conduits, cables, wires, and pipes that serve more than one unit or the Association property. By way of example, and not as a limitation, improvements included within the Owner Improvements are:

(1) any home constructed on a Lot including all exterior and interior construction, all finishes, paints, fixtures, appliances, roofing, doors and windows, heating, ventilating and AC equipment, swimming pool, spa and all associated equipment, all driveway and courtyard pavings, all furniture and furnishings; and

(2) all sod, plants, trees, and all other landscaping within the boundaries of each Lot; and

(3) all utilities services and installations contained within each home and Lot except those owned by the utility companies and the Association, which are defined as Common Improvements.

(b) all alterations or additions which depart from the standard development plan made by the lot owner, or by any of his predecessors in title other than Developer, to the unit or the lot, which alterations or additions shall be made pursuant to authorization by Developer or the Association board of directors as provided herein.

7. **COMMON IMPROVEMENTS.** As used herein, the "Common Improvements" on a lot shall mean all the Lot Improvements and parts thereof other than the Owner Improvements. By way of illustration and not as a limitation, the Common Improvements on a lot shall include the following, to the extent the same are not included within the Owner Improvements.

(a) all utility installation or facilities serving more than one unit, the Association Property, or the Docks (as defined in Paragraph 9 below); provided, however, Developer reserves the ownership of all main utility lines and equipment and all central television antenna signal distribution wires, lines, and equipment that are installed by Developer within the boundaries of the subdivision and the right to convey the same to the Association, Sarasota County or an agency thereof, the Town of Longboat Key, Florida Power & Light Company, General Telephone Company of Florida, Storer Cable T.V., or other person or legal entity as Developer may deem appropriate.

(b) all electrical apparatus and wiring, plumbing pipes and apparatus, and other ducts, conduits, cables, wire or pipe, which serve more than one unit, the Association Property, or the Docks to the extent the same are not owned by utility companies or Developer.

(c) all roadways and other common means of ingress and egress.

(d) all well, sprinkler, and irrigation systems.

(e) the Docks.

8. **BASIN AND SEAWALL.** The subdivision is located adjacent to a body of water referred to on the subdivision plat as "West Boat Basin" (the "Basin"). The Basin is



owned by Bay Isles Association, subject to such usage rights as heretofore may have been reserved by Arvida or Bay Isles Association.

The upland portion of the subdivision property adjacent to the Basin is protected by a seawall (the "Seawall") installed along the edge of the Basin. The seawall shall be maintained as necessary from time to time by the Association at its sole cost and expense. As used herein, the term "maintain" or "maintenance" shall be deemed to refer to the repair or replacement of the Seawall. Nothing herein, however, shall be deemed to prohibit Bay Isles Association from performing additional maintenance to the shoreline and the Seawall, at the expense of the Association, should Bay Isles Association deem the Association's maintenance to be inadequate.

All waterways, including the Basin, reflected on the plat of Bay Isles, Unit No. 4, are subject to regulation by Bay Isles Association as to the type, size, power, and speed of boats and other watercraft permitted to be operated on the waterway. In addition, Arvida or Bay Isles Association may adopt other rules and regulations pertaining to the safe usage of the waterways and, in general, promoting the general health, welfare, and safety of the residents of Bay Isles. Such regulations may also include the right to regulate the mooring of boats.

9. **DOCKS.** Developer intends to construct docks (collectively the "Docks" and individually a "Dock") along the basin for the use of the owners of Lots within the Subdivision. The Docks will be constructed adjacent to Lots 1 and 5 and Tract "6A". Developer further intends to assign to Lot owners purchasing a Dock slip privilege the exclusive use of one of the Docks for the mooring of a boat in the lawful possession of the lot owner or his lessees or houseguests. Access to the Docks will be over Tract "6A", except that the owner of Lot 1 will have exclusive use of the dock adjacent to Lot 1. The Docks and the types of boats permitted to be kept there may be subject to rules promulgated by Association, as well as regulation by the Town of Longboat Key. The Docks shall be maintained by Association. No boat shall exceed 25 feet in waterline length, or 10 feet in width. Jet skis shall not be stored on the Docks, a Lot or Association Property, nor launched from the subdivision property or the Docks into the Basin, nor used therein or in the adjacent waterways. Should the depth of the Basin adjacent to the Docks be so reduced by the accumulation of silt or otherwise that boats may no longer be safely moored at the Docks, the Association may cause such portion to be excavated to a reasonable depth, subject to any required approval of applicable governmental authorities and Bay Isles Association. The restrictions on boat size and jet skis contained in this paragraph shall not be deleted or amended without the prior written consent of Bay Isles Association.

10. **USAGE OF PRIVATE ROADS, WATERWAYS, AND GOLF COURSE.** On the plat of Bay Isles, Unit No. 4, as modified by the plat of this subdivision, Arvida granted to all property owners in this subdivision the nonexclusive and perpetual right of ingress and egress over and across the private roads and waterways reflected on the plats; reserving, however, the right to grant similar rights of ingress and egress over and across the private roads and waterways to the public and to property owners in other sections of Bay Isles,



including those yet to be developed. Arvida further granted to all property owners in this subdivision the nonexclusive and perpetual right of ingress and egress over and across all other private roads and waterways in Bay Isles. This right of ingress and egress shall be appurtenant to and shall pass with the title to each lot as the same may be conveyed from time to time without necessity of specific reference thereto.

Included within the Bay Isles planned unit development is the Harbourside Golf Course (the "Golf Course"). The Golf Course is not part of the subdivision, and usage of the Golf Course by any subdivision lot owner is subject to such conditions as may be imposed by the owner of the Golf Course. The right of usage of the Golf Course is not guaranteed to any lot owner. Anyone playing golf upon the Golf Course shall have a license to come upon the lands of the subdivision to retrieve errant golf balls. Such license shall not relieve any person causing damage by an errant golf ball or while retrieving it of responsibility for such damage.

11. **COMMON EXPENSES.** All costs and expenses that may be duly incurred by the Association through its board of directors from time to time in operating, maintaining, improving, protecting, managing, and conserving the Association Property, the Common Improvements, the Docks, and the Seawall and in carrying out its duties and responsibilities as provided by this Declaration and by its Articles of Incorporation and Bylaws shall constitute "common expenses" of the Association. Funds for the payment of the common expenses shall be collected by the Association through assessments against the lots in accordance with the provisions of Paragraph 17. By way of illustration and not as a limitation, the common expenses shall include:

- (a) costs of operation, maintenance, repair, and replacement of the Association Property, the Common Improvements, the Seawall, the shoreline, and the Docks (including all electrical, mechanical, and plumbing fixtures and equipment serving the Docks);
- (b) costs of management of the subdivision and administrative costs of the Association, including professional fees and expenses;
- (c) costs of water and sewerage service, electricity, and other utilities furnished to the subdivision that are not metered separately to the individual lots;
- (d) labor, material, and supplies used in conjunction with the Association Property, the Common Improvements, the Seawall, or the Docks;
- (e) damages to the Association Property, the Common Improvements, the Seawall, or the Docks in excess of insurance coverage;
- (f) salary of a manager or managers and their assistants, as shall be determined by the board of directors of the Association;

(g) premium costs of property and liability insurance procured by the Association pursuant to the terms hereof;

(h) costs incurred by the Association, upon approval by the board of directors, for the installation of additions, alterations, or improvement to the Association Property, the Common Improvements, the Seawall, or the Docks or for the purchase of additional lands, leaseholds, or other possessory or use rights in lands or facilities, memberships or other interests in recreational facilities, acquired for the benefit of all the lot owners, provided that if the cost of any of such items is more than 15 percent of the amount of the total annual budget, the purchase or installation of such items shall first be approved by the affirmative vote of lot owners holding a majority of the total votes of the Association membership;

(i) basic charges for cable or central antenna television service;

(j) costs of Basin excavation pursuant to Paragraph 9;

(k) other costs incurred by the Association in fulfilling its maintenance obligations under the terms of Paragraph 12(a)(2) - (6); and

(l) the costs for landscape maintenance of all Lots and Association Property except for landscaping located within any courtyard, and the costs for weekly cleaning and chemical maintenance of pools within each courtyard may be treated as common expenses and may be so designated in the budget.

12. **MAINTENANCE, REPAIRS, AND REPLACEMENTS.** The respective obligations of the Association and the lot owners to maintain, repair, and replace the subdivision property and other property serving the lot owners shall be as follows:

(a) **By the Association.** The Association shall maintain, repair, and replace as part of the common expenses:

(1) the Seawall, the shoreline, the Docks, and all electrical, mechanical, and plumbing fixtures and equipment serving the Docks;

(2) the Association Property and the Common Improvements plus items noted in Section 11(1) at the Association Board of Directors discretion;

(3) all electrical, mechanical, plumbing, ventilating, heating, air conditioning fixtures and equipment serving the Association Property;

(4) all sod, shrubs, landscape berm, and other landscaping and irrigation therefor along the unpaved right-of-way of Harbourside Drive and Bay Isles Road abutting the subdivision lots or the Association Property, as well as the paved extension of

the Weston Pointe Court roadway lying within the right-of-way of Bay Isles Road and Harbourside Drive.

The Association shall have the irrevocable right to have access to each lot from time to time during reasonable hours as may be necessary for the maintenance, repair, improvement, or replacement of the Association Property, the Common Improvements, the Seawall, the shoreline, or the Docks, and during any hours for performing such emergency repairs or procedures therein as may be necessary to prevent damage to same or to the Owner Improvements on another lot. If the Board of Directors determines that any maintenance, repair, or replacement required to be made by the Association was necessitated by the carelessness, negligence or intentional act of a lot owner, his lessee, invitees, or guests, the cost of such maintenance, repair, or replacement shall be assessed against the lot owner and shall be payable by such lot owner within 30 days after delivery of written notice of the assessment. Neither the Association nor any lot owner shall be liable for any damage to the property or person of any other lot owner or occupant caused by water intrusion into a unit through the Common Improvements or from another unit resulting from rain leakage, pipe leakage, overflow, or bursting, or other similar source, unless the Association or lot owner is guilty of gross negligence or willful and wanton misconduct.

(b) By the Lot Owners. Each lot owner shall maintain, repair, and replace all of the Owner Improvements on his lot. Each lot owner shall be responsible for washing all screens, windows, and other exterior glass surfaces serving his unit. In addition, in the event a lot owner obtains prior consent from the Association Board of Directors to install a non-standard improvement on the lot outside of the unit, such as a deck, a jacuzzi or a pool, that non-standard improvement shall be maintained at the expense of the lot owner. This shall not be deemed as authority for a lot owner to install non-standard improvements, which the Association may reject in its sole discretion.

Wherever adjoining lots are separated by a single wall, fence, hedge, or other barrier initially installed by Developer, the obligation to maintain the barrier shall be borne equally by the lots whose private areas are separated by the barrier.

In the event a lot owner fails to fulfill his maintenance obligations as set forth above, the Association, at the discretion of the board of Directors, may undertake such maintenance and make such repairs as the board may deem necessary, and the cost thereof shall be assessed against such defaulting lot owner and shall be payable within 30 days after delivery of written notice of the assessment.

13. INSURANCE, DESTRUCTION AND RECONSTRUCTION. Except as otherwise provided herein, the Association, as agent for and in behalf of the lot owners and their respective mortgagees, shall obtain and maintain flood, fire and extended coverage insurance with a responsible insurance company upon all of the insurable improvements of the Association Property, and the Docks, for the full replacement or insurable value thereof.



Each lot owner shall be responsible for insuring: (1) his own unit and all personal property within his unit and any improvements made by him within his unit, to his unit; or on his lot; (2) all paint, finishing, covering, wallpaper, and decoration of the surfaces of all walls, floors, ceilings, and doors bounding, or contained within his unit; and (3) all alterations or additions made by the lot owner, or by any of his predecessors in title other than Developer, to his unit or lot. Each lot owner shall also be responsible for insuring any non-standard improvements installed on the lot that such lot owner is obligated to maintain pursuant to Paragraph 12.

In the event of a destruction or casualty loss to any of the improvements in the subdivision or other property serving the lot owners, all insurance proceeds payable under the Association's policies shall be collected by the Association. If the proceeds are in excess of an amount equal to the total annual budget, they shall be immediately paid over by the Association to a banking corporation having trust powers selected by the Association Board of Directors. The proceeds shall be held by the bank in trust and used for immediate repair and reconstruction of the damaged improvements under the supervision and control of the Board of Directors. The insurance carrier shall not be responsible to ensure that the proceeds are paid over to the bank trustee or are properly applied as provided herein. The bank trustee shall disburse the proceeds held by it upon written draw requests signed by the president or vice president of the Association as reconstruction progresses. Any surplus of insurance proceeds shall be returned to the Association and added to the Association's funds. In the event the proceeds are not sufficient to pay the cost of the reconstruction and the bank trustee's costs and reasonable fees, the Association shall supply sufficient additional funds as a part of the common expenses of the Association. The Association's insurance carrier shall not have a right of subrogation against any lot owner, but if it is determined by the Board of Directors that the damage was proximately caused by the gross negligence or willful and wanton misconduct or intentional acts of a lot owner, such lot owner may be assessed a sum sufficient to reimburse the Association for any deficiency in insurance proceeds, which sum shall be payable by such lot owner within 30 days after delivery of written notice of the assessment. In the event the insurance proceeds are less than the amount of the total annual budget, they need not be placed in trust but shall be held by the Association and applied directly by the Board of Directors for the above purposes.

14. **LIABILITY INSURANCE.** The Association shall obtain and maintain public liability insurance covering the Docks and all of the Association Property and Common Improvements. The premiums for such insurance coverage shall be a part of the common expenses. The Board of Directors shall have authority to compromise and settle all claims against the Association or upon insurance policies held by the Association. The lot owners shall have no personal liability upon any such claims, except as may be otherwise provided by law, and nothing herein contained shall in any way be construed as imposing upon the Association a duty to assess lot owners for the purpose of raising sufficient funds to discharge any liability in excess of insurance coverage. Each lot owner will be responsible for procuring and maintaining public liability insurance covering losses which may occur in and about his particular unit, as he may deem appropriate.



15. **RESTRICTIONS UPON USE.** No owner, tenant, or other occupant of a lot (which, for the purposes of this Paragraph 15, shall include the unit constructed thereon) shall:

- (a) use the lot other than for residential purposes;
- (b) do any of the following without the prior written consent of the Association Board of Directors (except as may be otherwise authorized by the provisions of Paragraph 5): paint or otherwise change the appearance of any exterior wall, door, window, patio, screened terrace, balcony, or any exterior surface; place any sunscreen, blind, or awning on a balcony or exterior surface or opening; place any draperies or curtains at the windows of the unit without a solid, light-colored liner facing the exterior of the unit; tint, color, or otherwise treat or apply anything to any window which will adversely affect the uniform exterior appearance of the building in the opinion of the Board; plant any planting outside of the unit interior; erect any exterior lights or signs; place any signs or symbols in windows or on any balcony or exterior surface; erect or attach any structures or fixtures outside the unit interior; make any structural additions or alterations to the Association Property or Common Improvements (except the erection or removal of nonsupport carrying interior partitions wholly within the unit interior); or fasten any objects to the exterior walls or ceiling of the unit unless they may be removed without substantial damage to the wall or ceiling structure;
- (c) cause or permit loud or objectionable noises or obnoxious odors to emanate from the lot or other property in the subdivision which may cause a nuisance to the occupants of other lots in the sole opinion of the Board; or if the unit is separated from an adjoining unit by a common party wall, install or play within the unit any organ or electronically amplified musical instrument or device without the prior written consent of the Board of Directors, which consent, if given, shall restrict the playing of such instrument or device to reasonable hours;
- (d) make any use of the lot or other property in the subdivision which violates any laws, ordinances, or regulations of any governmental body;
- (e) fail to conform to and abide by the provisions of this Declaration, the Association's Articles of Incorporation and Bylaws, and such uniform rules and regulations in regard to the use of the lots, the Docks, and the Association Property as may be adopted from time to time by the Board of Directors;
- (f) erect, construct, or maintain any wire, antennas, garbage or refuse receptacles, or other equipment or structures on the Docks, on the exterior of any building, or on any other portion of the subdivision property, except with the written consent of the Association Board of Directors;

(g) cause or permit anything to be done or kept on the lot, the Docks, or any other property in the subdivision which will cause damage to, or increase insurance rates on, the Docks or any part of the subdivision property or improvements thereon;

(h) commit or permit any public or private nuisance or illegal act on the lot, the Docks, or any other property in the subdivision;

(i) divide or subdivide the lot for purpose of sale or lease (however, a lot may be combined with an adjacent lot and occupied as a single dwelling unit);

(j) obstruct the common way of ingress and egress to the other lots or the Association property;

(k) hang any laundry, garments, or unsightly objects from any place readily visible from outside the unit;

(l) allow anything to remain on the lot, the Docks, or other property in the subdivision which would be unsightly or hazardous;

(m) allow any rubbish, refuse, garbage, or trash to accumulate in places other than the receptacles provided therefor, or fail to keep the Owner Improvements on the lot in a clean and sanitary condition at all times;

(n) allow any fire or health hazard to exist;

(o) interfere with the use of another lot or Dock by the owner, occupant, or person entitled to the use thereof or make use of any part of the Association Property in such a manner as to abridge the equal rights of the other lot owners to its use and enjoyment;

(p) lease less than an entire lot or lease a lot more than once in any calendar year, or for less than three (3) consecutive months;

(q) store a golf cart in any place other than in a garage;

(r) park overnight any commercial vehicle, truck, boat, camper, motor home, trailer, mobile home, or similar vehicle, or any vehicle of unsightly appearance or in a state of disrepair, in any driveway or other parking area (other than in an enclosed garage), unless permitted in writing by the Board of Directors; provided, however, that the words "commercial vehicle" shall exclude any automobile bearing a small-sized business name;

(s) allow any animals to be kept on the lot, other than in conformity with rules and regulations promulgated from time to time by the Board of Directors;

(t) discharge saline or other regenerating solution from water softening equipment or any other chemicals into any street, easement, surface water drain, or portion of the subdivision property so as harmfully to affect any landscaping or plants or pollute the Bay Isles drainage system;

(u) fish from any point in the subdivision other than the lot or the Dock assigned for the exclusive use of the lot;

(v) rent the Dock assigned for the exclusive use of the lot except in connection with a lease of the lot.

16. SALE, TRANSFER, LEASE, OR OCCUPATION OF LOT. In the event of a sale, lease, transfer or occupation of a unit (except by the Developer), the owner shall notify the Board of Directors with the name of the new owner or tenant, along with the closing date of sale or term of lease. A unit shall not be leased for less than a three month term, or more often than once per year, and must be leased in its entirety.

17. ASSESSMENTS. The common expenses of the Association shall be payable by annual and special assessments levied by the Board of Directors against all lots in the subdivision. The Board of Directors shall approve annual budgets of anticipated income and common expenses for each fiscal year and thereupon shall levy an annual assessment against each lot. The annual assessment shall be collected in the manner provided in the Bylaws. The Board of Directors shall have the power to levy special assessments against the lots as prescribed in the Bylaws. Payment of any special assessment levied by the Board shall be due upon not less than 30 days written notice thereof on the date and in such installments as the board may specify.

(a) Assessments. Each lot shall be subject to an equal assessment and have one vote in Association matters.

(b) Commencement of Assessment. Notwithstanding any of the above, no lot shall be liable for the payment of any portion of any annual or special assessment or installment thereof until the first day of the month following the issuance of a certificate of occupancy for the unit constructed by Developer on the lot.

(c) Delinquent Assessments. Any assessment, including an assessment made pursuant to the provisions of Paragraph 12 and 13, which is not paid when due shall be subject to a late charge of ten (10%) percent, or such other late charge as may be established by resolution of the board, and shall bear interest from the due date until paid at the rate of eighteen (18%) percent per annum or at such other rate as may be established by resolution of the Board up to the maximum rate allowed by law. If any assessment is payable in installments and a lot owner defaults in the payment of an installment, the remaining installments of such assessment may be accelerated by the Association to maturity by giving the defaulting lot owner ten (10) days notice of intent to accelerate unless all delinquent sums are paid within that time.



(d) Personal Obligation of Lot Owner. Every assessment levied by the Board of Directors of the Association shall be the personal obligation of the owner of the lot against which the assessment is levied, ownership being determined as of the date of such levy. If any such assessment is not paid within thirty (30) days after the same is due, then the Association may bring suit against the owner on his personal obligation, and there shall be added to the amount of such assessment the aforementioned late charge and interest and all costs and reasonable attorneys' fees incurred by the Association in preparation for and in bringing such action, including reasonable attorneys' fees for appellate proceedings.

18. ASSOCIATION LIEN RIGHTS. To provide an additional means to enforce the collection of any assessment, including assessments made pursuant to the provisions of Paragraphs 12 and 13, the Association shall have a lien against each lot and all improvements thereon. The lien of every such assessment, together with interest and late charges thereon and cost of collection thereof as herein provided, shall attach and become a charge on each lot and all improvements thereon upon the recording of this Declaration.

In the event any assessment is not paid within thirty (30) days after the same is due, the Association shall have the right to file a claim of lien in the Public Records of Sarasota County. The lien may be enforced by the Association by foreclosure suit in the same manner as a mortgage or mechanics lien foreclosure or in such other manner as may be permitted by law. In the event the Association files a claim of lien against any lot, the Association shall be entitled to recover from the owner of such lot the late charge and interest described in Paragraph 17 and all costs and reasonable attorneys' fees incurred by the Association in preparing, filing, and foreclosing the claim of lien, including reasonable attorneys' fees for appellate proceedings. All such late charges, interest, costs, and attorneys' fees shall be secured by the lien of the assessment.

It is the intent hereof that the Association's lien rights against each individual lot shall be subordinate and inferior only to the lien of ad valorem taxes and special assessments levied by governmental authorities, the lien of assessments levied by Bay Isles Association, and the lien of any first mortgage held by an institutional first mortgagee as provided in Paragraph 19.

19. RIGHTS OF INSTITUTIONAL FIRST MORTGAGES. All savings and loan associations, banks, credit unions, mortgage bankers, mortgage brokers, insurance companies, pension funds having assets in excess of \$25 million, agencies of any state government, and agencies of the United States Government (including the Veterans Administration, the Federal Housing Administration, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation), and their subsidiaries, affiliates, successors, and assigns, holding first mortgages upon any of the lots are herein referred to as "institutional first mortgages".

The termination of the provisions of this Declaration by vote of the lot owners shall require the written consent of the institutional first mortgagees holding at least fifty-one



(51%) percent of such first mortgages. Such consent shall not be unreasonably withheld. Any institutional first mortgagee that acquires title to a lot through mortgage foreclosure or acceptance of a deed in lieu of foreclosure shall not be liable for any assessments levied against such lot which became due prior to the acquisition of such title unless a claim of lien for such assessment was recorded prior to the recording of the mortgage.

20. **RIGHTS OF DEVELOPER.** Developer reserves the ownership of all central television antenna signal distribution wires, lines, and equipment that are installed by Developer within the boundaries of the subdivision (the "CATV facilities") and the right to convey the CATV facilities to, or authorize the use of the CATV facilities by, such cable television company as Developer may deem appropriate. If requested by the Association, the provision of basic cable television services by such company shall be through contract with the Association on behalf of the lot owners.

Developer reserves the right to use the name "Weston Pointe" or any similar name in connection with other condominium or subdivision developments in Bay Isles.

21. **EASEMENTS.** The respective rights and obligations of the lot owners, the Association, Developer, and others concerning easements affecting the subdivision property shall include the following:

(a) **Granted to Lot Owners.** Each lot owner is hereby granted a nonexclusive perpetual easement: (1) over and across Weston Pointe Court for ingress and egress to and from his lot; and (2) for any encroachments by his unit on an adjoining lot which may exist now or in the future by virtue of overhangs, foundation slab or footer underground extensions across lot lines, inaccuracies in construction or settlement or movement of the unit, or otherwise, which encroachments shall be allowed to remain undisturbed until they no longer exist.

(b) **Granted to Utilities.** There is hereby granted to all public and private utility companies furnishing utility services to the subdivision as of the time of recording of this Declaration, or hereafter authorized by Developer or the Association to furnish such services, a perpetual nonexclusive easement for the construction, installation, maintenance, repair, and replacement of the equipment, structures, and other improvements by which such utility services are respectively provided over, under, across, and through such portion of the subdivision property as may be reasonably necessary therefor.

(c) **Granted to and by the Association.** There is hereby granted to the Association a perpetual nonexclusive easement across each lot for the purpose of maintaining the Association Property, the Common Improvements, the Seawall, the shoreline, and the Docks. The Association is also hereby granted a perpetual nonexclusive easement of support in any portion of a unit which contributes to the support of that or any other unit. The Association shall have the right to grant easements under, over, across, and through the subdivision property to such persons or entities and for such purposes as the

Association Board of Directors may deem appropriate by recording in the Public Records of Sarasota County, Florida, an instrument duly executed by the President or Vice President of the Association.

The use of any easement granted under the provisions of this Paragraph 21 shall not include the right to disturb the Docks or any building or structure on the subdivision property, and any damage caused to same shall be repaired at the expense of the party causing such damage. In the event a party's use of an easement granted pursuant to the terms hereof causes a disturbance of the surface of the land; the roadways, grass, landscaping, and other improvements which are disturbed shall be restored promptly by such party as nearly as possible to their prior condition.

22. **SUBDIVISION RESTRICTIONS AND SETBACK REQUIREMENTS.** The subdivision property is identified as Weston Pointe, and is in turn located within the subdivision known as Bay Isles, Unit No. 4, and is subject to matters set forth on said plats.

23. **MANAGEMENT AGREEMENT.** The Association, acting through its Board of Directors, is authorized to enter into an agreement with any person or legal entity, including Developer or an affiliated company of Developer, to act as managing agent to handle the administrative affairs and maintenance obligations of the Association upon such terms and conditions as the Board may deem to be in the best interests of the subdivision and the lot owners. The Board of Directors shall, however, retain at all times the power to adopt budgets, levy assessments, promulgate rules, and otherwise determine matters of non-ministerial character.

24. **REMEDIES FOR DEFAULT.** In addition to the remedies provided by statute and common law and the remedies elsewhere provided herein, a default by the owner, tenant, or occupant of any lot in complying with the provisions and requirements of this Declaration, the Articles of Incorporation, the Bylaws, and such regulations and rules as may be promulgated by the Association Board of Directors shall entitle the Association to injunctive relief or money damages or both. In any such legal or equitable action or proceeding in which the Association is the prevailing party, the Association shall be entitled to recover its costs and reasonable attorneys' fees, including reasonable attorneys' fees for appellate proceedings. During the continuance of any such default, the Association by action of the Board of Directors may discontinue the supply of any utility services to the defaulting party's lot that are paid by the Association as part of the common expenses. Upon the correction of such default and the payment by the lot owner of the expense of the discontinuance and restoration of such services, they shall be immediately restored.

25. **DURATION.** The provisions of this Declaration shall run with and bind all of the property in the subdivision and shall inure to the benefit of and be enforceable by the Association, and each lot owner, and their respective legal representatives, heirs, successors, and assigns, for a term of ninety-nine (99) years from the date this Declaration is recorded, after which time the provisions of this Declaration shall be automatically



extended for successive periods of ten (10) years each unless prior to the commencement of any such ten-year period: (1) lot owners holding at least two-thirds of the total votes of the Association membership approve the termination of the provisions of this Declaration, and (2) a written instrument certifying that such approval has been obtained is signed by the President and Secretary of the Association and recorded in the Public Records of Sarasota County.

26. **AMENDMENTS.** The provisions of this Declaration may be amended by affirmative vote of lot owners holding at least two-thirds of the total votes of the Association membership, except that provisions relating to sharing of common expenses, rights of Developer, rights of institutional first mortgagees, rights of Arvida, and voting rights of lot owners may be amended only with the written consent of all persons or entities adversely affected thereby. Amendments to the Association's Articles of Incorporation and Bylaws may be made in the manner provided therein and shall not be subject to the requirements set forth herein for amendments to the provisions of this Declaration.

No amendment shall be effective unless it be in writing, executed by the President or Vice President and attested by the Secretary of the Association with the formalities required for conveyance of real property in the State of Florida, and recorded in the Public Records of Sarasota County. Any amendment so executed and recorded shall be prima facie evidence that the amendment was duly adopted in accordance with the requirements of this Declaration and the Association's Articles of Incorporation and Bylaws. It shall not be necessary for the individual owners of lots or holders of recorded liens thereon to join in the execution of any amendment, except as specifically provided herein.

All amendments shall reasonably conform to the general purposes of the covenants and restrictions set forth herein and shall take effect immediately upon recordation in the Public Records of Sarasota County.

27. **BINDING EFFECT.** All provisions of this Declaration shall be enforceable as equitable servitudes and shall run with the land and shall be in full force and effect until a particular provision is duly amended or until this Declaration is duly revoked and terminated. Any gender used herein shall include all genders and legal entities; the plural number shall include the singular and the singular shall include the plural. The term "Developer" as used herein shall include Weston Pointe, Inc. and its successors and assigns. The obligation of Developer arising under this Declaration or under any other instrument are corporate obligations and do not extend to the employees, officers, directors, and shareholders of Developer or of any corporate partner of Developer. Such employees, officers, directors, and shareholders shall have no individual liability in any action brought, or for any claim asserted, by the Association or by any lot owner in connection with the construction, development, or sale of any lot, unit, or other property or improvements in the subdivision.

28. **SEVERABILITY.** If any provision of this Declaration or the Association's Articles of Incorporation or Bylaws, or any section, sentence, clause, phrase or word thereof, or the application thereof in any circumstance, is held invalid by a court of competent jurisdiction, the validity of the remainder of such instruments and the application thereof in other circumstances shall not be affected thereby.

IN WITNESS WHEREOF, the Association, has caused this Amended and Restated Declaration to be executed in its name this 21 day of MARCH, 1995.

Signed, sealed and delivered  
in the presence of:

WESTON POINTE ASSOCIATION, INC.,  
a Florida corporation

Mary Ann Pipes  
Signature of Witness

Mary Ann Pipes  
Print Name of Witness

Nathan Sharon  
Signature of Witness

NATHAN SHARON  
Print Name of Witness

By: [Signature]  
As its: President

(CORPORATE SEAL)



STATE OF FLORIDA  
COUNTY OF SARASOTA

I HEREBY CERTIFY that the foregoing instrument was acknowledged before me this 21 day of MARCH, 1995 by JERRY L. MATHEIS, as PRESIDENT of WESTON POINTE ASSOCIATION, INC., a Florida not for profit corporation, on behalf of the corporation. He is personally known to me or has produced \_\_\_\_\_ as identification and did/did not take an oath. If no type of identification is indicated, the above-named person is personally known to me.

(Notary Seal)

Signature of Notary Public

Print Name of Notary Public

Commission Number:  
My Commission Expires:



ANTHONY D. BARTROME  
MY COMMISSION # CC 181524 EXPIRES  
APRIL 7, 1998  
BONDED THROUGH TROY FARM INSURANCE, INC.

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