

AMENDED AND RESTATED
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
GULL AIRE VILLAGE

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR GULL AIRE VILLAGE (“Declaration”) is made on July 6, 2001, by Gull Aire Ltd., a Florida limited-partnership, whose address is 610 Cobia Way, Oldsmar, Fl. 34677, hereinafter referred to as “Developer”.

WHEREAS, Developer is the developer of certain real property in Pinellas County, Florida which is more particularly described on Exhibit “A” attached hereto and incorporated herein by reference, commonly referred to as Gull Aire Village and Gull Aire Village Phase II (collectively the “Properties”), and

WHEREAS, the Developer, and its predecessors in interest, in developing Gull Aire Village has placed certain covenants, restrictions, and conditions upon the use of the Properties as set forth in the covenants and restrictions recorded in O.R. Book 4822, Page 811, as amended and superceded by the Amended Covenants and Restrictions of Gull Aire Village, recorded in O.R. Book 5233, Page 773, as amended by amendments recorded in O.R. Book 5478, Page 1343, O.R. Book 5535, Page 1975, O.R. Book 5629, Page 217, O.R. Book 6237, Page 1219, O.R. Book 6950, Page 122, O.R. Book 7227, Page 1944, O.R. Book 7537, Page 1488, O.R. Book 7726, Page 289, O.R. Book 8534, Page 1890, O.R. Book 8891, Page 1920, O.R. Book 9103, Page 1963, and O.R. Book 10461, Page 2634, each of the Public Records of Pinellas County, Florida (collectively, the “Original Declaration”); and

WHEREAS, the Developer, pursuant to the authority set forth in Section 30 of the Original Declaration, desires to amend and restate the Original Declaration as one, cohesive and composite document to simplify reference thereto by all present and future residents within the Properties, and desires for the covenants, conditions and restrictions set forth in this Declaration to continue to run with the land and be binding on title to all of the Properties;

NOW, THEREFORE, pursuant to the authority set forth in Section 30 of the Original Declaration, Developer hereby declares that all of the Properties shall continue to be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of, and which shall run with the title to the Properties and be binding on all parties having any right, title, or interest in the Properties or any part thereof, their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each Owner thereof.

Section 1. Definitions.

- (a) The term “*Association*” shall mean and refer to Gull Aire Village Association, Inc., a Florida not-for-profit corporation, its successors and assigns.

- (b) The term “*Board of Directors*” or “*Board*” shall mean and refer to the Association’s Board of Directors.
- (c) The term “*Building Plot*” shall refer to all or parts of a platted Lot or Lots and may consist of one or more contiguous platted Lots, all or part of one platted Lot, all of one platted Lot and part of a contiguous platted Lot or Lots, or any other combination of contiguous parts of platted Lots which will form an integral unit of land suitable for use as a residential single family detached home site. A Building Plot shall have an area of not less than 4000 square feet except that this requirement for minimum area shall not apply to a Building Plot which consists of or includes an entire Lot. No Residence shall be erected upon or allowed to occupy any Building Plot having less than such minimum area unless the Building Plot consists of or includes an entire Lot as shown on any Plat.
- (d) The term “*Developer*” shall mean and refer to not only Gull Aire Ltd., a Florida limited partnership, but also any successor, alternate, or additional Developer appointed by Gull Aire Ltd. as a successor, alternate, or additional Developer by an instrument in writing, specifically setting forth that such successor, alternate, or additional Developer is to have, together with Gull Aire Ltd., the Developer’s rights, duties, obligations, and responsibilities, in whole or in part, for all or any portion of the Properties.
- (e) The term “*Lot*” shall mean and refer to the numbered plot of land shown on any plat and shall be used for residential purposes only for the development and maintenance of one (1) Residence. Except as otherwise provided, no structure shall be erected or permitted to remain on any Lot or Building Plot other than one (1) Residence.
- (f) The term “*Owner*” shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot which is part of the Properties. The term Owner shall include Developer.
- (g) The term “*Plat*” shall mean any and all plats of all or any portion of the Properties, which plat is approved by the City of Oldsmar, Florida, and recorded in the Official Records of Pinellas County, Florida.
- (h) The term “*Residence*” shall mean a single-family detached home, whether manufactured home, site-built home, or otherwise.

Section 2. Access Ways.

- (a) The Developer shall have the right, but not the obligation, to remove or require the removal of any fence, wall, hedge, shrub, bush, tree, or other improvement, natural or artificial, placed or located on any Lot or Building Plot, if the location of the same will obstruct the vision of a motorist on any of the access ways as are shown on the Plat of any part of the Properties (“Access Ways”); and

- (b) Where any walls or fences shall be placed upon any easement of any nature by the Developer, the Owner of the Lot on which such structure is located shall not in any way remove, cut, or otherwise interfere with the walls as placed on such easements.

Section 3. Building and Use Restrictions.

- (a) Each Owner shall be required to construct or cause to be constructed a Residence upon its Lot or Building Plot within (1) year from the date title is conveyed to such Owner by the Developer or other Developer. Once construction of any Residence or related structure on such Lot or Building Plot is begun, the work thereon shall be prosecuted diligently and continuously until the full completion thereof. The Residence and all related structures shown on the plans and specifications approved by the Developer pursuant to Section 4 hereof, must be completed in accordance with such plans and specifications within (12) twelve months after the start of the first construction upon such lot unless such completion is rendered impossible as the direct result of labor strikes, fires, national emergencies, natural calamities, or other matters beyond the reasonable control of the Owner. Prior to completion of construction of the Residence, the Owner shall install or cause to be installed at the Owners expense a paved driveway from the abutting access Ways to the Residence.
- (b) No building on any Lot or Building Plot may be used for business, commercial, amusement, hospital, sanitarium, school, clubhouse, religious, charitable, philanthropic, or manufacturing purposes, or as a professional office, and no billboards or advertising signs of any kind shall be erected or displayed thereon, except such signs as are permitted by the terms of this Declaration. No building situated on any Lot or Building Plot shall be rented or leased separately from the rental or lease of the entire Lot or Building Plot.
- (c) No Residence shall be placed or allowed to remain on any Lot or Building Plot unless the ground floor square footage of the Residence, exclusive of screened porches and garages shall equal or exceed 860 square feet.
- (d) Each Lot or Building Plot and Residence to be constructed thereon shall be subject to building setback areas as follows: (i) as to Lots and Residences within Gull Aire Village, 7.5 feet from the front Lot line, 7.5 feet from each side Lot line, and 7.5 feet from each rear Lot line, except that as to each side Lot line located adjacent to an Access Way the setback will be 10 feet from such side Lot line; and (ii) as to Lots and Residences within Gull Aire Village Phase II, the building set backs shall be 10 feet from the front Lot line, 5 feet from each side Lot line, and 10 feet from the rear Lot line, except that as to each side Lot line located adjacent to an Access Way the setback will be 10 feet from such side Lot line.
- (e) No part of any building, utility room, hedge, wall or any type or kind of permanent structure (except driveways and patios) shall be erected, placed or allowed within the building setback areas described in subparagraph (d) above. A living hedge, which does not extend more than 5 feet above ground surface may be erected, or placed within one foot from any interior side of the Lot or Building Plot. No orange or other

citrus trees shall be permitted in front or street side yards of any Lots without prior written consent of the Developer.

- (f) Notwithstanding any other provisions of these covenants and restrictions, no utility room, wall or any type or kind of permanent structure shall be erected, allowed or placed within any of the areas designated on any Plat as easement areas. Any of the foregoing placed within any of the easement areas shall be removed by the Owner installing such at the request or requirement of the Developer.
- (g) No shed, shack, trailer, tent or other temporary or movable building or structure of any kind shall be erected or permitted to remain on any Lot. However, this section shall not prevent the use of a temporary construction shed during the period of actual construction of the Residence and other buildings permitted hereunder, nor the use of adequate sanitary toilet facilities for workmen, during the course of such construction.
- (h) No septic tank shall be permitted within the Properties.

Section 4. Architectural Approval.

For the purpose of further insuring the development of the Properties as a residential area of the highest quality and standards, the Developer reserves for itself and an architectural committee of the Association, which committee will be created after the turnover of control by Developer, the exclusive right to approve all of the buildings, structures and other improvements to be developed or installed on each Lot or building Plot, and any modifications or additions thereto; provided, however, that for so long as the Developer owns Lots with the Properties, no building structures, improvements, modifications or additions shall be made within the Properties without the Developer's consent. No Residence or other building, and no fence, wall, hedge, utility room, driveway, swimming pool or structure or improvement, regardless of size or purpose, whether attached or detached from the residence, shall be commenced, placed, erected or allowed to remain on any Lot or Building Plot, nor shall any addition to or exterior change or alteration thereto be made, unless and until building plans and specifications covering the same, showing the nature, kind, shape, height, size, materials, floor plans, exterior color schemes with paint samples, location and orientation on the Lot or Building Plot, an approximate square footage, construction schedule, on-site sewage and water facilities, and such other information as the Developer or the architectural committee shall require, including, if so required, plans for grading and landscaping of the Lot or Building Plot showing any changes proposed to be made in the elevation or surface contours of the land, have been submitted to and approved in writing by the Developer or the architectural committee, as the case may be. In reviewing the building plans and specifications, and grading and landscaping plans, the Developer or the architectural committee, as the case may be, may take into consideration the suitability and desirability of the proposed improvements, the quality of the proposed workmanship and materials, the harmony of external design with the surrounding neighborhood and existing structures therein, and the effect and appearance of the improvements as viewed from neighboring properties. In the event the Developer or the architectural committee, as the case may be, fails to approve or disapprove the building plans and specifications within thirty (30) days after the same have been submitted, the approval of the Developer or the architectural committee, as the case may be, shall be presumed and the provisions of this section shall be deemed to have been satisfied, provided,

however, that no Residence or other building, structure or improvement which violates the terms of this Declaration or which is not in harmony with the surrounding neighborhood and the existing structures herein shall be deemed approved and erected or allowed to remain on any part of a Lot or Building Plot.

Section 5. Vehicle Parking Prohibitions.

No Boats, trailers, campers, recreational vehicles, or commercial trucks may be kept in front yards, driveways, side yards or utility rooms; provided, however, that commercial pickup trucks and commercial sports utility vehicles that are an owner's or occupant's sole form of transportation may be kept on driveways. All boats, trailers, campers, and recreational vehicles shall be kept only in the area designated by the Developer for storage of such vehicles, except that recreational vehicles may be parked on driveways for up to 48 consecutive hours for the purpose of loading, unloading or cleaning the same. No commercial trucks or other commercial vehicles, including any part thereof, such as the tractor, or trailer of semi-units or commercial agricultural farm or landscaping equipment, that is not stored fully within an enclosed garage shall be kept by an Owner or occupant on any Lot or anywhere in the Properties. The provisions of this section shall not apply to vehicles used for construction purposes during daytime hours by a licensed general contractor, subcontractors or materialmen, who are performing construction within the Properties. Storage in the area designated by the Developer as provided for in this section shall be at a charge, which shall be set by the Developer in its sole discretion from time to time. The Developer does not assure adequacy of storage, and the storage shall be on a priority basis to those applying for storage while they require such storage. Any charges for removal of any vehicles parked in violation of this section shall be borne by the Owner, and shall constitute a lien against such Owner's Lot or Lots, which shall be enforceable as provided in Section 16 of this Declaration.

Section 6. Age Restrictions.

The Properties are intended and shall be operated as a community providing housing for older persons in Compliance with the Fair Housing Act (42 U.S.C. §§3601, et seq.) and the State of Florida Fair Housing Act (Section 760.20, et seq., Florida Statutes), each as may be amended, from time to time. Each Lot shall be occupied by at least one (1) "older person", as defined by the Fair Housing Act, in effect from time to time. Persons under the age of fifty-five (55) and more than eighteen (18) years of age may occupy and reside in the residence as long as at least one of the occupants is fifty-five (55) years of age or older. No person under the age of eighteen (18) years of age shall be allowed to permanently reside in or occupy a Residence. For purposes of occupancy by persons under eighteen (18) years of age, "permanent" occupancy shall mean occupancy more than sixty (60) days in any twelve (12) month period, or occupancy for more than thirty (30) consecutive days. Notwithstanding anything to the contrary, at least eighty-percent (80%) of the Lots and Residences subject to this Declaration shall be occupied in the manner required herein and Developer shall have the power to allow up to twenty percent (20%) of the Residences in the Properties to be occupied by persons who do not meet the criteria set forth herein. The Developer shall have the further authority to make rules and regulations to ensure continued enforceability with the Fair Housing Act, as amended from time to time.

Section 7. Sign Prohibition.

Except as otherwise permitted herein, no sign of any character shall be displayed or placed upon any Lot, except for a "For Sale" or "For Rent" sign not exceeding 12 inches by 24 inches displayed in a window of the Residence. The Developer may enter upon any Lot and remove and destroy any signs, which are placed on the Lot in contravention of this section.

Section 8. Garbage or Trash Restrictions.

No Garbage or trash incinerator shall be placed or permitted to remain on a Lot or any part thereof. Garbage, trash and rubbish shall be removed from the Lots only by services or agencies approved in writing by the Developer. After the erection of any building on any Lot, the Owner shall keep and maintain on the Lot covered garbage containers in which all garbage shall be kept until removed from the Lot. Such garbage containers at all shall be kept at all times on the Lot or on the adjacent Access Way at such location as shall be designated and approved by the Developer, and shall be stored in such a way as to be substantially screened from view. The Developer shall have the right to approve any and all garbage containers. No Trash, garbage, rubbish, debris, waste material or other refuse shall be deposited or allowed to accumulate or remain on any part of the Properties.

Section 9. Animal Restrictions.

No animals or birds shall be kept, permitted raised or maintained on any Lot or Building Plot except as permitted in this section. No more than one (1) dog, cat or bird may be kept as a pet on a single Lot or Building Plot for the pleasure of the occupants, and such pet shall not be kept for any commercial or breeding use or purpose. If any such permitted animals or birds shall, in the sole opinion of the Developer, become dangerous or an annoyance or nuisance, or destructive of wildlife, the Developer may require removal of the animal or bird. Birds shall be kept caged at all times.

Section 10. Prohibition of Illegal, Noxious, and Offensive Activity.

No illegal, noxious or offensive activity or behavior shall be permitted or carried on in any part of the Properties, nor shall anything be permitted or done thereon which is or may become a nuisance or a source of embarrassment, discomfort or annoyance to the neighborhood. No fires for burning of trash, leaves, clippings or other debris or refuse shall be permitted on any part of the Properties.

Section 11. Developer's Easements.

- (a) The Developer, for itself and its successor-in-interest and assigns, hereby reserves and is given a perpetual, non-exclusive easement, privilege and right on, over and under all of the easement areas shown on the Plat (whether such easements are shown on the Plat to be for drainage, utilities or other purposes) and on, in, over and under the front, rear and side setback areas of each Lot, to erect, maintain and use water mains, drainage lines or drainage ditches, sewers and other suitable equipment and related appurtenances for drainage and sewage disposal purposes; and to erect, install, maintain and use poles, wires, cables, conduits, and to erect, install, maintain and use for the transmission of electricity, telephone, cable television, gas, and other conveniences or utilities.
- (b) The Developer retains for itself and its successors-in-interest, agents, employees and assigns, a non-exclusive easement for ingress, egress and utilities across all streets, roadways driveways and walkways that may from time to time exist within the Properties and the easement areas adjacent to those tracts which lie between the rear

building restriction lines on Lots adjacent to those tracts and the rear boundaries of such tracts as such easement areas are shown on the Plat.

- (c) The Developer shall have the unrestricted and sole right and power of alienating and releasing the privileges, easements and rights referred to in this section. The owners subject to the privileges, rights and easements referred to in this section shall acquire no right, title or interest in or to any poles, wires, cables, conduits, pipes, mains, lines or other equipment or facilities placed on, over or under the property which is subject to said privileges, rights and easements. All such easements, including those designated on the Plat, are and shall remain private easements and the sole and exclusive property of the Developer and its successors-in-interest and assigns, except to the extent dedicated on the Plat.

Section 12. Restrictions Against Replatting and Resubdivision.

The platted Lots shall not be resubdivided or replatted except as provided in this section. Any Lot or Lots shown on any Plat may be resubdivided or replatted (by deed or otherwise) only with the prior written approval of Developer and with such approval may be subdivided or replatted only in a manner which produces one or more Building Plots, each of which shall meet the requirements of Section 1 (c) and the other provisions of this Declaration. In the event a Lot is resubdivided or replatted, the several covenants, restrictions, easements and reservations herein set forth, shall apply to the resubdivided or replatted Lots provided that no such resubdivision or replatting shall affect easements shown on the Plat prior to such resubdivision or replatting.

Section 13. Wetland Maintenance.

- (a) Owners whose Lots abut wet detention ponds shall not remove native vegetation that becomes established within the wet detention ponds. Removal includes dredging, the application of herbicide and cutting. Owners should address any questions regarding authorized activities within the wet detention ponds to Pinellas County or the Southwest Florida Water Management District ("SWFWMD"). No pier, dock, boathouse, bulkhead or other structure of any kind shall be erected, placed or permitted to remain in or over any portion of the Properties' lake front or Canal Lots without the consent of the Developer, the City of Oldsmar, Pinellas County, and all applicable regulatory agencies.
- (b) All common grounds around ponds and wetland areas shall be maintained by the Association. No Lot Owner with the Properties may construct or maintain any building, Residence, or structure, or perform any activity in the wetlands, buffer areas, and upland conservation areas described in the approved permit and recorded Plat of the Properties, unless prior approval is received from Pinellas County or SWFWMD pursuant to Chapter 40D-4. The Properties, at the time of construction of a building, Residence, or structure, must comply with the construction plans for the surface water management system pursuant to Chapter 40D-4, F.A.C., approved and on file with the Pinellas County and SWFWMD.

- (c) The Developer shall have the sole and absolute right, but no obligation, to control the water level of each and all mentioned wetland areas.
- (d) No Lot Owner or occupant shall have the right to pump or otherwise remove any water from the above mentioned wetland areas or for the purpose of irrigation or other use, nor place rocks, stones, trash, garbage, sewage, water discharged from swimming pools or heating or air conditioning systems, waste water (other than surface drainage), rubbish, debris, ashes or other refuse in the above mentioned wetland areas or any portion of the tracts.

Section 14. Developer's Right to Dedicate Land. Developer shall have the sole and absolute right at any time, with the consent of the Board of County Commissioners of Pinellas County, or the governing body of the City of Oldsmar, if applicable to dedicate to the public all or any part of the tracts shown on the Plats, all or any part of the easements reserved herein (including those shown on said Plats), all or part of parcels shown on the Plats, providing that all first institutional mortgagees of record consent in writing.

Section 15. Owner Maintenance Requirement. The Lot Owner whether the Lot is improved or unimproved, shall keep such Lot free of tall grass, undergrowth, dead trees, dangerous dead tree limbs, weeds, trash and rubbish, and shall keep such Lot at all times in a neat and attractive condition. In the event the Owner of any Lot fails to comply with this section, the Developer or the Association shall have the right, but not the obligation, to go upon the Lot and to cut and remove tall grass, undergrowth and weeds; to remove rubbish and any unsightly or undesirable objects therefrom; and perform all desirable maintenance to maintain the Lot in a neat and attractive condition, all at the expense of the Owner. Entry on an Owner's Lot for such purpose shall not constitute a trespass. If such maintenance is undertaken by Developer or the Association, the charge therefore shall be secured by a lien on the Lot and become part of the Lot annual maintenance fee and collected in the same manner as the enforcement of fees in Section 16.

Section 16. Assessments.

- (a) Each Building Plot in the Properties is hereby subject to an annual maintenance fee as hereinafter provided. The annual maintenance fee shall be set for, and shall cover the calendar year, and shall be payable monthly commencing April 1, 1980, and on the same day each year thereafter. Each Lot Owner shall pay to the Association 1/12th of the annual maintenance fee then in effect, payable in advance on the first of each month at the office of the Association in Pinellas County, Florida, or at any other place as shall be designated by the Association, and such payments shall be used by the Association to create and continue maintenance funds. The annual maintenance fee shall become delinquent if not paid by the second day of the month during which the fee shall become due. If received by the office after the fifth of the month the payment is due, the payment must include a \$2.50 per month late charge from the due date until paid. The annual maintenance fee may be adjusted from year to year by the Association as the needs of the Properties in the judgment of the Association may require, provided however, that the charges shall not be less than \$20.00 nor more than \$25.00 per month per Lot for so long as the Class B member shall control the Association. The annual maintenance fees may, at any Lot Owner's discretion, be paid in advance according to the total annual fees set in any calendar year.

- (b) In addition to the annual maintenance fee which shall fund the budget of the Association, the Board of Directors may additionally propose special assessment charges for consideration by the Lot Owners to provide for capital improvements, maintenance, the purchase of property, either real or personal and for the purpose of making improvements to the existing capital structures and the Properties. No such special assessment charge shall be made against the Lot Owners for new capital improvements or capital maintenance to existing improvements unless such improvements or maintenance shall first be approved by no less than sixty percent (60%) of the Class A members of the Association.
- (c) The maintenance funds provided by the annual maintenance fees may be used for the following purposes only:
 - 1. Payment of operating maintenance and management expenses of the Association, including expenses for such professional services and management fees as are approved by the board;
 - 2. Maintenance, improvements and operation of drainage easements and systems that are not the responsibility of the City of Oldsmar or Pinellas County;
 - 3. Maintenance of recreational facilities and parks, lakes, ponds and buffer strips, and purchase of such facilities in accordance with the agreement of Purchase and Sale dated March 11, 1992, between the Developer and the Association;
 - 4. Garbage collection and trash and rubbish removal from any and all common area grounds that are subject to the control of, and dedicated to the association;
 - 5. Any necessary or desirable activity to keep the subdivision neat and attractive to preserve the value of the Properties, to eliminate fire, health or safety hazards, or, to provide general benefit to the Owners or occupants of the Properties;
 - 6. Repayment of funds and interest borrowed by the Association and used for any of the purposes referred to above; and
 - 7. Maintenance and operation of the surface water management system.
- (h) Except as otherwise provided in this Section 16, it shall not be necessary for the Association to allocate or apportion from the maintenance funds or expenditures the various purposes specified in this section. The judgment of the Association in the expenditure of the maintenance funds shall be final. The Association, in its discretion, may hold the maintenance funds invested or uninvested, and may reserve portions of the maintenance funds as the Association determines necessary for expenditures in subsequent years after the annual maintenance fees were collected.
- (i) The annual maintenance fee and any related interest charges shall constitute a debt from the Lot Owner which is due and payable to the Association on demand and shall be secured by a lien upon any and all improvements on the Lot to which it is assessed. The Lien shall attach annually as hereinafter provided and shall be enforceable by the Association in a court of competent jurisdiction. In the event the Association institutes a proceeding to collect or enforce the fee or lien, the Association shall be entitled to recover from the Lot Owner all costs, including reasonable attorneys' fees, incurred in and about such proceedings and all costs shall be secured by the lien.
- (j) A lien for maintenance fees shall attach to the Lot and improvements as of April 1 of the year for which the annual maintenance fee is due. Each annual maintenance fee shall be subordinate and inferior to the lien of any first mortgage encumbering the Lot and improvements only if such mortgage was recorded in the public records of the

Pinellas County, Florida, prior to the attachment date of such lien. The foreclosure of any first mortgage and the conveyance of title by foreclosure proceedings, or by voluntary deed in lieu of foreclosure shall not affect or impair the existence, validity, or priority of the annual maintenance fee liens thereafter assessed with respect to such Lot and improvements. Upon request, the Association shall furnish any Owner or mortgagee a certificate showing the unpaid maintenance fees, if any, against any property and the year or years for which any such unpaid maintenance fees were assessed.

- (k) The Developer has platted the additional subdivision of land known as Gull Aire Village Phase II. The Developer hereby subjects the lands in Gull Aire Village Phase II and the purchasers of Lots therein to annual maintenance fees, and grants to the Association the rights, power, duties and obligations with respect to such annual maintenance fees, for similar objects and purposes and conditions as those which are set forth in this section. The commencement date for annual maintenance fees applicable to the additional subdivision Lots shall be at the time that the Developer transfers the Lot to a new Owner. It shall not be necessary for the Association to allocate or apportion the maintenance funds collected by it, or the expenditures therefrom, between or among Gull Aire Village and Gull Aire Village Phase II. The maintenance funds may be collected, commingled and expended by the Association whether they were collected from fees on Lots in Gull Aire Village or Gull Aire Village Phase II.

Section 17. Removal of Improper Improvement, Building or Structure.

Where any structure, building, improvement or condition violates these covenants and restrictions, the Developer shall have the right, but not the obligation, after thirty (30) days' written notice, to enter upon the Lot where the violation exists and to abate and remove the violation at the expense of the Owner of the Lot. Entry upon any Lot for abatement or removal shall not be deemed a trespass and shall not make the Developer liable in any way for any damages on account thereof. Section 18.

Developer Approval. Wherever the Owner is required to procure the consent or approval of Developer prior to commencing an action, no activity shall begin until after the request is received in writing by the Developer and Developer has granted written approval. In the event Developer fails to act on any such written request within thirty (30) days after receipt by Developer, the consent and approval of Developer shall be presumed. However, no action shall be taken by or on behalf of the person or persons submitting such written request which violates any of the covenants and restrictions contained herein. Section 19. Transfer and Assignment.

Developer shall have the sole and exclusive right at any time to transfer and assign to, and to withdraw from such person, firm or entity as it shall elect, any or all rights, powers, privileges authorities and reservations given to or reserved by Developer. If at any time hereafter there shall be no person, firm or entity entitled to exercise the rights, powers, privileges, authorities and reservations given to or reserved by Developer under the provisions hereof, the same shall be vested in and exercised by a committee to be elected or appointed by the Owners of a majority of the Lots shown on the Plat. Nothing herein contained, however, shall be construed as conferring any rights, powers, privileges, authorities or reservations in the committee except in the event foresaid. None of the provisions of this section shall apply to or affect the provisions of Section 16. Section 20. Rules and Regulations.

The board of Directors shall have the sole right to promulgate the rules and regulations governing the application and enforcement of these covenants and restrictions provided that the rules and regulations conform to the general purposes and standards of the covenants and restrictions contained herein. A violation of any rule or

regulations promulgated by the Board shall be considered a violation of these covenants and restrictions. Section 21. Resale. Except for sale or lease thereof by Developer, No Lot, parcel or unit shall be sold or leased by any person or party, without the Owner first procuring the written consent of the Board of Directors of the Association. Such consent shall be given or withheld based upon the grantee's or tenant's ability to meet the financial obligations of the Lot, and the terms of the Fair Housing Act. The Owner proposing a sale or lease shall apply to the Board in writing for approval of the same, attaching the proposed sale documents and agreements to the Owner's application. The Board shall provide a written response approving or disapproving the proposed transaction within ten (10) days of the Owner's application. For purposes of this section, a sale or lease shall include gifts. The Association may charge a fee relative to the foregoing approval procedures in an amount equal to its reasonable expenses incurred but in no event to exceed fifty dollars (\$50.00). The fee amount shall be subject to the collection proceeding outline in Section 16.

Section 22. Developer's Right to Amend.

(a) The Developer reserves and shall have the sole right to the following: (1) to amend this Declaration, except Section 16, for as long as the Class B member shall control the association, but all such amendments shall conform to the general purpose and standards of the covenants and restrictions herein contained; (2) to amend the Declaration for the purpose of curing any ambiguity in or any inconsistency between the provisions contained herein; (3) to include in any contract or deed or other instrument hereafter made additional covenants and restrictions applicable to the Properties, or any portion thereof, which do not lower the standards of the covenants and restrictions herein contained; (4) to amend Section 16 provided that not less than 60% of the Class A members of the Association shall have first consented to such amendment; and (5) to waive as to any Lot any part of this Declaration which has been violated (including, without limitation, violations of building restriction lines and provisions hereof relating thereto) if the Developer, in its sole judgment, determines such violation to be minor or insubstantial violation. When the Class A members assume control of the Association they shall assume the rights of the Developer hereunder provided that all such amendments shall be approved by not less than a majority of all members except for amendments to Section 16 which shall require the approval of not less than 60% of Class A members.

(1) Any amendment to this Declaration which affects the surface water management system, including the water management portions of the Common Areas, must have prior approval of the Southwest Florida Water Management District.

Section 23. Running with the Land.

(a) This Declaration, as amended and added to from time to time as provided for herein, shall, subject to the provisions hereof and unless released as herein provided, be deemed to be covenants running with the title to the land and shall remain in full force and effect until **April 1, 2023**. Thereafter the terms of this Declaration shall be automatically extended for successive periods of 25 years each, unless within six (6) months prior to **April 1, 2023**, or within six months preceding the end of any such successive 25 year period, a written agreement executed by the then Owners of a Majority of the Lots shown on the Plat of the Properties shall be placed on record in the office of the Clerk of the Circuit Court of Pinellas County, Florida. In such a written agreement, the majority of the Owners may change, modify, waive or extinguish in whole or in part any of the covenants, restrictions, reservations and easements provided herein. In the event that any such written agreement shall be executed and recorded as provided for above in this section, this Declaration, as therein modified,

shall continue in force for successive periods of 25 years each, unless and until further changed modified, waived or extinguished in the manner provided in the foregoing.

- (b) No individual Owner, without the prior written approval of the Developer, may impose any additional covenants, restrictions, and conditions on any part of the Properties.

Section 24. Violation of Covenants and Restrictions.(a) If any person, firm, or entity shall violate or attempt to violate any of these covenants or restrictions, it shall be lawful for the Developer, the Association or any Owner to prosecute proceedings for the recovery of damages against those in violation or attempting to violate any such covenants or restrictions, or to maintain an action in any court of competent jurisdiction against those so violating or attempting to violate any such covenants or restrictions for the purpose of preventing or enjoining all or any such violations or attempted violations. The remedies contained in this section shall be construed as cumulative of all other remedies now or hereafter provided by law. The failure of Developer, its successors or assigns, or the Association to enforce any covenant or restriction or any obligation, right, power, privilege, authority or reservation herein contained, shall in no event be deemed a waiver of the right to enforce the same or to enforce a similar breach or violation thereof occurring subsequently.

- (b) Any action taken by Developer, Owners, or the Association to prosecute proceedings for the recovery of damages against those violating or attempting to violate the covenants and restrictions, or rules adopted by the Board or to prevent or enjoin any such violations or attempted violations, above described in this section, whether or not an action is filed in a court of competent jurisdiction, shall entitle Developer, the Owners, or the Association recovery from the Owner or Owners, all costs, including reasonable attorneys' fees, incurred in and about such proceedings, including attorney's fees and costs for any appeal. Any costs shall be secured by a lien on the Owner's Lot in the same manner as liens for nonpayment of assessments in Section 16.
- (c) All assessments or liens related to the violation of these covenants and restrictions shall be deemed to be inferior to any first mortgage placed upon any Lot or Lots in this subdivision by a financial institution, recognized bank, insurance company or savings and loan association. Any liens or fees due upon any Lot or Lots pursuant to this section shall be null and void as it pertains to any financial institution, recognized bank, insurance company or savings and loan association which has foreclosed on any Lot in the Properties or has taken title to such Lot in lieu of foreclosure.

Section 25. Sales Activities; turnover.(a) Developer reserves, and the Association grants to Developer, the right to make such use of Lots or other parcels and the Common Area within the Properties as may facilitate completion of the sale of all Lots or other parcels within the Properties by the Developer, and no buildings or other improvements constructed by Developer on Lots, Building Plots, or other portions of the Properties will be subject to the review of the architectural committee. Without limiting the foregoing, the Developer shall have the right to maintain a sales office, model units, administration office, and/or construction office (which may be a construction trailer or a temporary or permanent building) on Lots or other parcels or on the Common Area. Developer further shall have the right to erect and maintain signs on Lots or other parcels or on the Common Area, shall have the right to bring prospective purchasers upon the Common Area, shall have the right to use the Common Area for any sales purposes, shall have the right to grant the right of use of the Common Area to any prospects or any other individuals or group in its sole discretion and shall be entitled to conduct all other marketing activities desired by Developer. The foregoing rights of Developer shall continue for so long as Developer owns any Lots or any other parcels within the

Properties, notwithstanding the turnover of control of the Association by Developer to the Class A members.

- (b) Without the express prior written consent of the Developer, no amendments shall be made to the Declarations and no rules and regulations shall be adopted by the Association which shall modify the assessments or other charges on Developer's Lots within the Properties, or which shall restrict, impair or in Developer's sole judgment adversely affect Developer's activities in the Common Area, delegation of use of the Common Area, or marketing and sale of the remaining Lots or other parcels in the Properties, whether or not such activities are enumerated in the preceding subsection, and notwithstanding turnover of control of the Association by Developer to the Class A members.

Section 26. Severability. The invalidation of any provisions or provisions of the Declaration by judgment or court order shall not affect or modify any of the other provisions of this Declaration, which shall remain in full force and effect. IN WITNESS WHEREOF, the Developer

has caused this instrument to be executed by its duly authorized officers and its corporate seal hereunto affixed all as of the ____ day of _____ 200__.

Signed, sealed and delivered
To the presence of:

GULL AIRE LTD.,
a Florida limited partnership
By: Three Q Corporation
A Florida corporation
Its: General Partner
By: _____
Gary F. Queen, President

Printed Name: _____

Printed Name: _____

STATE OF FLORIDA COUNTY OF PINELLAS The foregoing instrument was acknowledged before me this ____ day of _____, 200__, by Gary F. Queen, as President of Three Q Corporation, a Florida corporation, as the General Partner of Gull Aire Ltd., a Florida limited partnership, on behalf of the corporation and the limited partnership. He is personally known to me or has produced _____ (type of identification) as identification.

Signature of Person Taking Acknowledgement

Name of Acknowledger Typed, Printed or Stamped (NOTARY SEAL)