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AMENDED AND RESTATED

DECLARATION

OF

COVENANTS

FOR

WESTLAKE LANDINGS
(F/K/A/ WESTLAKE COMMERCIAL POD H)

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**AMENDED AND RESTATED
DECLARATION OF COVENANTS
FOR
WESTLAKE LANDINGS**

THIS AMENDED AND RESTATED DECLARATION is made this ___ day of _____, 21 by **MINTO PBLH, LLC**, a Florida limited liability company ("**Declarant**"), who declares hereby that "**The Properties**" described on **Exhibit "A"** hereto and in Article II of this Declaration are and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

This instrument amends and restates that certain Declaration of Covenants for Westlake Commercial Pod H originally recorded in Official Records Book 31337, Page 825 of the Public Records of Palm Beach County, Florida and is made by Declarant under its authority to do so set forth in Article XI, Section 5, of said Declaration.

ARTICLE I
DEFINITIONS

The following words when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

(a) "Assessments" shall mean and refer to the sums payable by Owners as to their Parcels as more particularly described in Article V of this Declaration.

(b) "Board" or "Board of Directors" shall mean the board of directors of the POA elected as provided in its Articles of Incorporation and By-Laws.

(c) "Building" shall mean and refer to the primary structure located on a Parcel and, where the context so requires, any and all other structures and improvements constructed for the exclusive use of an Owner of a Parcel, or such Owner's Permittees whether above or below ground, including, without limitation, any equipment related to the dispensing of gasoline and other petroleum products, on a Parcel.

(d) "City" shall mean and refer to the City of Westlake, Florida as a governmental entity or, where the context requires, a geographical location.

(e) "Common Areas" shall mean and refer to The Properties legally described in **Exhibit "B"** attached hereto and made a part hereof, plus all property designated as Common Areas in Article IV, Section 2 hereof; exclusive of any Buildings; together with the landscaping and any improvements thereon, including, without limitation, all signage, private roadways and sidewalk areas, open space, walkways, irrigation systems and

street lights, if any, but excluding any public utility installations thereon, and any other property of Declarant not intended to be made Common Areas.

(f) "County" shall mean and refer to Palm Beach County, Florida as a governmental entity and all divisions and departments thereof as well as its Constitutional Officers or, where the context requires, a geographical location.

(g) "Declarant" shall mean MINTO PBLH, LLC, a Florida limited liability company, its successors and assigns. Declarant may assign all or only a portion of its rights, benefits and protections hereunder and may do so on an exclusive or non-exclusive basis. Any such assignment shall be in writing and recorded in the Public Records of the County, Florida.

(h) "District" shall mean and refer to Seminole Improvement District, an independent special district of the State of Florida.

(i) "Governmental Requirement" shall mean and refer to any obligation, requirement, condition, restriction or other term imposed upon The Properties by any governmental or quasi-governmental agency (including, without limitation, Palm Beach County, Florida and the hereinafter defined SFWMD) by way of development order, permit, approval, plat, statute, law, rule, code, ordinance or other means. Notwithstanding the foregoing, none of the foregoing shall be deemed to be within the definition of Government Requirement in the form of a later adopted or imposed matter if The Properties would otherwise be deemed "grandfathered" under such later matter.

(j) "Ground Lease" shall mean and refer to a long-term lease of a Parcel(s) under which the lessee occupying Parcel takes on a preponderance of the characteristics of an Owner. The Lessor under a Ground Lease shall be referred to herein as a Ground Lessor.

(k) "Owner" shall mean and refer to all those persons or entities who are Owners of the Parcels as provided in Article III hereof. As well, any lessee under a Ground Lease shall be deemed an Owner hereunder as to the Parcel which is leased to it if the Ground Lessor so notifies the Association in writing and each such Ground Lessee agrees in writing to assume such Owner rights and obligations. In the event that an association is created to govern all of the portions of a Parcel which is subdivided by Declarant or a successor in title thereto, such association shall act as the Owner of all of what was the Parcel (before being subdivided) for purposes of voting and paying assessments hereunder as well as for compliance with the other provisions of this Declaration as to any common areas / common elements created by such subdivision.

(l) "Owner's Permittees" shall mean and refer to a person or entity described in Article III, Section 3 of this Declaration.

(m) "Parcel" shall mean and refer to a segment of property within the Properties constituting a separate, platted parcel of land on which a Building is or is to be located.

The Parcels hereunder consist of Parcel 1 and Parcel 2, as shown on the Plat of The Properties.

(n) "Plat" shall mean and refer to that certain Plat entitled Westlake POD H recorded in Plat Book 129, Page 135 of the Public Records of Palm Beach County, Florida, including any future re-plats of same or any portion thereof.

(o) "POA" shall mean and refer to WESTLAKE LANDINGS PROPERTY OWNERS' ASSOCIATION, INC., a Florida corporation not for profit. The Articles of Incorporation and By-Laws of the POA are attached hereto as Exhibits "D" and "D", respectively and reference herein to this Declaration shall be deemed to include such Exhibits, as amended from time to time.

(p) "Surface Water Management System" or "SWMS" shall mean and refer to the system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted by the South Florida Water Management District ("**SFWMD**").

(q) "The Properties" shall mean and refer to all land and improvements subject to this Declaration.

ARTICLE II
PROPERTY SUBJECT TO THIS DECLARATION:
SUPPLEMENTAL DECLARATIONS

The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in the Palm Beach County, Florida, and is more particularly described in **Exhibit "A"** attached hereto, all of which real property (and all improvements thereto) is herein referred to collectively as "**The Properties**".

In the event that a Parcel is subdivided as contemplated in this Declaration, then Declarant (or, if Declarant no longer owns any portion of The Properties, the Association joined by the Owner(s) of the applicable property shall execute and record a Supplemental Declaration allocating the votes and assessments attributable to the original Parcel to the Parcels resulting from the subdivision process and such resulting Parcels shall then and thereafter have such assessment and voting allocations. Such allocations shall be based upon the gross acreage of each Parcel, rounded up or down to result in a whole number at rates and shares of assessments.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION;
OWNER'S PERMITTEES

Section 1. Membership.

Each of the Owners shall be a member of the POA and the Owners shall have the number of votes for its Parcel described in **Exhibit "B"**, with the Parcels being depicted on **Exhibit "C-1"**. Notwithstanding the foregoing, as long as Declarant owns a Parcel, it shall have the right to appoint a majority of the Board of Directors of the POA, provided that the other members may elect the remaining director(s). In the event that any Parcel is subdivided by re-plat or other method (including a portion thereof being subjected to a Ground Lease thereby creating a functionally separate Parcel), then the foregoing voting allocation shall be recalculated based up the total area (measured in square feet) of each Parcel relative to the entire area of the Plat less any portion thereof dedicated to the City, County or District or other governmental entity.

Section 2. General Matters.

When reference is made herein, or in the Articles, By-Laws, rules and regulations, management contracts or otherwise, to a majority or specific percentage of Members, such reference shall be deemed to be reference to a majority or specific percentage of the votes of Members present in person or by proxy at a duly constituted meeting thereof (*i.e.*, one for which proper notice has been given and at which a quorum exists) and not of the Members themselves or of their Parcels.

In the event of any conflict among the various documents creating, governing or administered by the POA, the following order of priority and control shall apply: this Declaration, the Articles of Incorporation of the POA, the By-Laws of the POA and any rules and regulations adopted by the POA. Additionally, should any recorded covenants, restrictions, easements or other instruments applicable to a specific Parcel(s) exist, then such instrument shall have first priority with respect to its subject matter as it effects the applicable Parcel(s).

Section 3. Owner's Permittees.

The rights of access, the use restrictions provided for herein and any rules and regulations of the POA shall extend to and include not only the Owners but also the invitees, tenants, employees and others using The Properties with the permission of any Owner, such parties being referred to in this Declaration as an Owner's Permittee.

ARTICLE IV
COMMON AREAS; CERTAIN EASEMENTS

Section 1. Owners' Easements.

Except for Limited Common Areas, if any, and portions of The Properties designated as Common Areas solely for maintenance or other limited purposes, as herein specified, each Owner, and each Owner's Permittee, shall have a non-exclusive permanent and perpetual easement over and upon the Common Areas for the intended use and enjoyment thereof in common with all other such Owners and Owner's Permittees in such manner as may be regulated by the POA.

Without limiting the generality of the foregoing, such rights of use and enjoyment are hereby made subject to the following:

(a) The right and duty of the POA to levy assessments for the purpose of maintaining the Common Areas and facilities in compliance with the provisions of this Declaration and with all Governmental Requirements and for the general operation of the Association.

(b) The covenants and restrictions contained in this Declaration and the additional right of the POA to adopt at any time, and from time to time enforce reasonable rules and regulations governing the use of the Common Areas and all facilities at any time situated thereon, including the right to fine Owners as hereinafter provided, provided such rules and regulations are applied uniformly to all Owners and do not materially adversely affect a specific Owner (or set of Owners) or the Owners' Permittees. Any rule and/or regulation so adopted by the POA shall apply until rescinded or modified as if originally set forth at length in this Declaration.

(c) The right to the use and enjoyment of the Common Areas and facilities thereon for their intended purposes shall extend to all Owners' Permittees, subject to this Declaration and further regulation from time to time by the POA in its lawfully adopted and published rules and regulations.

(d) The right of the POA to have, grant and use general ("blanket") and specific easements over, under and through the Common Areas.

(e) The right of the POA, to dedicate or convey portions of the Common Areas to any other association having similar functions, or any public or quasi-public agency, special district or similar entity under such terms as the POA deems reasonably appropriate and to create or contract with the other association, community development and special taxing districts for lighting, roads, or other services, or communications and other similar purposes deemed reasonably appropriate by the POA (to which such dedication or contract all Owners, by the acceptance of the deeds, to their Parcels, shall be deemed to have consented, no consent of any other party, being necessary).

Section 2. Nature of Common Areas.

The Common Areas, if any, will, for the most part, consist of easements dedicated to the POA on the Plat of The Properties, by separate recorded instrument or in this Declaration. As to road rights-of-way, the centerline of same are intended to be the boundary lines of the adjacent Parcels on which they are located. As well, various monument and directional signage may be located on Parcels per separate easements for same. In such cases, the signage itself (but, not the underlying land) shall be deemed to be Common Areas. Accordingly, it is contemplated that there will not be a conveyance of the fee simple title to the Common Areas to the POA, except for the dry retention area in the southwest corner of The Properties as indicated on **Exhibit "C-1"**. Additionally, street lighting shall not be deemed a Common Area regardless of its location but the Association shall bear the costs associated with its operation by payment to Florida Power and Light Company or its successor in interest.

Section 3. Maintenance.

The POA shall at all times maintain in good repair and manage, operate and insure, and shall replace as often as necessary, the Common Areas including, without limitation, rights of way, roads, streets or access easements not constituting part of a Parcel; utility easements/tracts or facilities not maintained by a public utility provider; and conservation or preservation easements/areas, if any and, to the extent not otherwise provided for, the drainage structures, landscaping, improvements and other structures situated on the Common Areas, if any, all such work to be done as ordered by the Board of Directors of the POA. Without limiting the generality of the foregoing, the POA shall assume all of Declarant's and its affiliates' responsibility to the City, the County, the South Florida Water Management District, and all other state and local governmental entities of any kind with respect to the Common Areas and shall indemnify and hold the Declarant and its affiliates harmless with respect thereto.

To the extent a Common Area consists of an easement over, under or through a Parcel, the POA's responsibility for the maintenance thereof shall be limited to maintaining the functionality of the easement for its intended purpose (e.g., drainage as part of the SWMS or signage as provided below) and not the lands subject to the easement (e.g., landscaping or pavement), except to the extent damaged or altered by the POA's activities thereon.

All work pursuant to this Section and all expenses incurred or allocated to the POA pursuant to this Declaration shall be paid for by the POA through assessments (either general or special) imposed in accordance herewith.

No Owner may waive or otherwise escape liability for assessments by non-use (whether voluntary or involuntary) of the Common Areas or abandonment of the right to use the Common Areas.

Section 4. Cross-Access.

Declarant does hereby grant and declare that all means of ingress and egress located on each Parcel shall be subject to a perpetual but non-exclusive easement in favor of the other Parcel(s) for such vehicular and pedestrian ingress and egress as is necessary for the use and benefit of the other Parcel(s); provided, however, that as to Parcel 1 as shown on the Plat of The Properties, the following areas are specifically excluded from this Section 4: any areas located directly under any motor fuel canopy or above any underground storage tank, and any access drives or drive through lanes serving a car wash facility.

Neither Owner nor any future Owner(s) of any Parcel(s) will erect any curbs, fences, gates, barriers, landscaping or other obstruction of any kind or which would prevent, hinder or interfere in any way with the free flow and passage of vehicular and pedestrian traffic, without charge, of a sufficient nature to satisfy the requirements of this Section, except for temporary interruptions for maintenance, repair or replacement purposes or special events. This provision shall not, however, prevent the installation and use of a gate(s) on a Parcel where there is no necessity of access over such Parcel or the portion restricted by the gate.

THE FOREGOING EASEMENTS ARE NOT INTENDED AND WILL NOT BE CONSTRUED AS A DEDICATION OF THE PROPERTIES FOR PUBLIC USE NOR AS GRANTING AN EASEMENT FOR PARKING OR CROSS-PARKING BETWEEN OR ON THE PARCELS.

Section 5. Driveway Connection.

In the event any Owner, tenant or other occupant of a portion of The Properties constructs a drive and/or curb cut on such party's Parcel which directly connects to the driveway connecting Parcel A-1 to the extension of Persimmon Boulevard (being a Common Area) depicted on **Exhibit "C-1"**, to the extent that any of such property is not maintained as a Common Area by the Association (such property being referred to herein as the "**Driveway**"), the party connecting to the Driveway shall be responsible for reimbursing the Owner of Parcel A-1 for its *pro rata* share (based upon net acreage of such connecting Parcel and the Parcel originally served by the Driveway) of the monthly costs and expenses incurred by such Parcel A-1 Owner for the maintenance, repair and replacement, as necessary, of the Driveway. Such payment shall be made within thirty (30) days of the issuance of an invoice for such share and any amounts not paid when due shall bear interest at the rate equal to the lesser of eight percent (8%) per annum or the maximum rate of interest permitted by law.

Section 6. Common Area Sign Maintenance Easements.

Declarant may, from time to time, obtain or reserve easements on Parcels for the placement/construction of monument, directional and other signs serving all or portions of The Properties. In such cases, Declarant will also obtain and cause to be recorded a

Sign Maintenance Easement under which the Association is the Grantee and which will provide for the Association to maintain the sign and related improvements on the portion of the Parcel subject to such easement.

In the case of monument signs, the design, appearance and placement thereof and any replacements or substitutions of signs shall be determined by Declarant in its sole discretion (but in compliance with, all Governmental Regulations), in all cases for so long as Declarant owns any portion of The Properties. During such time, Declarant shall have the sole right to assign the right to use space on each monument sign to Owners or occupants of Parcels by written assignment, a copy of which shall be delivered to and retained by the Association. Thereafter, the Owner of the Parcel containing a business benefitted by any such sign shall have the right to replace same and/or to assign to another Parcel the right to use the space occupied by such sign, such assignment to be made by written notice to the Association and not recorded in public records. Such signage, replacement or substitution shall be at the sole cost of Declarant or, if applicable, the Parcel Owner but the maintenance of the signage and related improvements shall be by the Association as stated in the immediately preceding paragraph.

In the event that a sign is located in a Rural Parkway Easement in favor of the District and the County, then such sign shall only be a Context-Sensitive Community Information Monument as provided in such Easement and shall be continuously used and maintained as such.

Section 7. Public Easements.

Fire, police, health, sanitation, postal service and other public service and public utility personnel and vehicles shall have a permanent and perpetual easement for ingress and egress over and across the Common Areas in the performance of their respective duties.

Section 8. Limited Common Areas.

The POA may designate portions of the Common Areas as being Limited Common Areas, the use of which is restricted to one or more Parcels to the exclusion of others. By way of example only, signage along a roadway Common Area pertaining to only one Parcel would be a Common Area of such Parcels. In making such designation, the POA may, but shall not be required to, provide (i) that the cost of maintaining the particular Limited Common Area shall be assessed only against the benefitted Parcel(s) as a Benefitted Assessment, or (ii) that the Owner(s) of the Parcel(s) maintain the Limited Common Area.

Section 9. Disclaimer of Warranties.

DECLARANT, ON BEHALF OF ITSELF AND ITS SUCCESSORS, ASSIGNS, CONTRACTORS, SUBCONTRACTORS, ENGINEERS, PLANNERS, ATTORNEYS AND OTHER PROFESSIONALS PARTICIPATING IN THE DESIGN,

DEVELOPMENT AND CONSTRUCTION OF THE PROPERTIES (COLLECTIVELY, THE "DISCLAIMING PARTIES") HEREBY DISCLAIMS ANY AND ALL WARRANTIES OF FITNESS, MERCHANTABILITY, COMPLIANCE WITH GOVERNMENTAL REQUIREMENTS AND OTHERWISE WITH RESPECT TO ALL OF THE PROPERTIES. EACH OWNER AND OWNER'S PERMITTEE, BY VIRTUE OF ACCEPTING TITLE TO A PARCEL OR MAKING USE THEREOF OR OF ANY COMMON AREA, SHALL BE DEEMED TO HAVE WAIVED AND RELEASED THE DISCLAIMING PARTIES FROM ANY AND ALL, CLAIMS, DAMAGES AND LIABILITIES ARISING FROM OR CONNECTED WITH THE DESIGN, DEVELOPMENT OR CONSTRUCTION OF THE PROPERTIES.

ARTICLE V

COVENANT FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Assessments.

Except as provided elsewhere herein, Declarant, for all Parcels within The Properties, hereby covenants and agrees, and each Owner owning or administering a Parcel shall be deemed to covenant and agree, to pay to the POA annual Assessments and other charges provided for in this Declaration. Such Assessments and other charges are for the operation of, and for payment of expenses allocated or assessed to or through, the POA, the maintenance, management, operation and insurance of the Common Areas and Surface Water Management System, including such commercially reasonable reserves as the POA may deem commercially reasonably desirable, as well as for all other reasonable costs incurred by the POA in the performance of its functions. All Assessments and other charges hereinafter referred to or lawfully imposed by or on the POA, are to be fixed, established and collected from time to time as herein provided. The Assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Parcel against which each such Assessment is made. Such lien to be effective as of the date of this Declaration.

Section 2. Assessment Types.

Assessments hereunder shall be of the following types:

"Base Assessments" shall be the Assessments for expenses which are common to all Owners.

"Benefited Assessments" shall be the Assessments for expenses which are for the primary (though not necessarily sole) benefit of one more of Parcel or to a subgroup of same. Only an Owner(s) benefited by the expenses for which the Benefited Assessments are levied shall pay such Benefited Assessments. The Board of Directors' determination of what constitutes an expense for which a Benefited Assessment is to be levied, as

well as upon which Parcels they are to be so levied, shall be binding and conclusive as long as not wholly unreasonable.

"Special Assessments" shall be those Assessments for expenses resulting from unforeseen occurrences (e.g., uninsured casualty loss) or which are otherwise of such a nature that they occur less frequently than annually but which, in the reasonable discretion of the Board of Directors, is properly collected in a manner other than through the other types of Assessments designated herein. Special Assessments shall also include those charges specified elsewhere in this Declaration as Special Assessments. The Board of Directors shall also determine those Owners liable for Special Assessments in accordance with the nature of the expense for which they are levied. By way of example only, if the POA is to install improvements primarily benefiting, and particularly if requested by, one type of Owner, then the Special Assessment for same shall be levied only against the benefited Owner(s). On the other hand and, again, only by way of example, if a Special Assessment is for an expense benefiting all of the Owners, then the Special Assessment shall be allocated in the same manner as Base Assessments.

Section 3. Assessment Rates.

Base Assessments shall be allocated to the Parcels, in whole units of Assessments, as listed in **Exhibit "C"**. Accordingly, each Parcel's percentage share of Base Assessments and Special Assessments, shall be the number of Assessments allocated to the Parcel divided by forty-five (45).

In the event that any Parcel is subdivided by re-plat or other method (including a portion thereof being subjected to a Ground Lease thereby creating a functionally separate Parcel), then the foregoing assessment allocation shall be based upon gross acreage as provided in Article II hereof less any portion thereof dedicated to the City, County, District or other governmental entity.

Benefited Assessments shall be allocated (i) 100% to the benefited Parcel, if only one, or (ii) per the ratios of the percentages shown on the above list, if two.

Special Assessments shall be allocated in the same manner as Base Assessments or Benefited Assessments, as applicable.

Section 4. Purpose of Assessments.

The Assessments levied by the POA shall be used exclusively for the purposes expressed in this Declaration including, without limitation, for the enforcement of this

Declaration, the maintenance, repair and insurance of the Common Areas and the Surface Water Management System and the administration of the POA. Commercially reasonable reserves for capital improvement, deferred maintenance and/or other purposes may be established and collected as Assessments at the option of the Board of Directors.

Section 5. Capital Improvements.

Funds which, in the aggregate, exceed thirty percent (30%) of the total amount of the then-current operating budget of the POA in any one fiscal year which are necessary for the addition of capital improvements (as distinguished from repairs and maintenance) relating to the Common Areas under the jurisdiction of the POA and which have not previously been collected as reserves or are not otherwise available to the POA (e.g., by borrowing) shall be levied by the POA as Assessments only upon approval of a majority of the Board of Directors of the POA and upon approval by two-thirds (2/3) favorable vote of the Owners of the POA voting per Article II, hereof at a meeting or by proxy as may be provided in the By-Laws of the POA. Assessments for capital improvements, unless collected in the form of revenues, shall be deemed Special Assessments to be levied in accordance with Section 2 of this Article V.

Section 6. Date of Commencement of Assessments; Due Dates.

The various Assessments provided for in this Article V, other than those of a nonrecurring nature, shall commence on the first day of the month next following the recordation of this Declaration and shall be applicable through December 31 of such year. Each subsequent annual Assessment shall be imposed for the year beginning January 1 and ending December 31.

The Base Assessments and Benefited Assessments shall be payable in advance in monthly installments, or in annual, semi-annual or quarter-annual installments if so determined by the Board of Directors of the POA (absent which determination they shall be payable quarterly).

The Assessment amount (and applicable installments) may be changed at any time by said Board from that originally stipulated or from any other Assessment that is in the future adopted. The original Assessments for any year shall be levied for the calendar year, but the amount of any revised Assessment to be levied during any period shorter than a full calendar year shall be in proportion to the number of months (or other appropriate installments) remaining in such calendar year.

The due date of any Special Assessment shall be fixed in the Board resolution authorizing such Assessment.

Section 7. Duties of the Board of Directors.

The Board of Directors of the POA shall fix the amount of the Assessments against the Parcels subject to the POA's jurisdiction for each Assessment period, to the extent practicable, in advance of such period, and shall, at that time, prepare a roster of the Parcels and Assessments applicable thereto which shall be kept in the office of the POA and shall be open to inspection by any Owner.

Written notice of the Assessment shall thereupon be sent to every Owner subject thereto at least thirty (30) days prior to the due date of the first installment thereof, except as to Special Assessments. In the event no such notice of the Assessments for a new Assessment period is given, the amount payable shall continue to be the same as the amount payable for the previous period, until changed in the manner provided for herein.

Subject to other provisions hereof, the POA shall upon demand (and in any event within twenty (20) days of the POA's receipt of such written request) at any time furnish to any Owner liable for an Assessment a certificate in writing signed by an officer of the POA, setting forth whether such Assessment has been paid as to any particular Parcel. Such certificate shall be conclusive evidence of payment of any Assessment to the POA therein stated to have been paid. The POA may charge a commercially reasonable fee for such certificate or, alternatively, its management company (if any) may do so, such fee in no event to exceed \$300.00.

Section 8. Effect of Non-Payment of Assessment; the Personal Obligation; the Lien; Remedies of the POA.

If the Assessments (or installments) provided for herein are not paid on the date(s) when due (being the date(s) specified herein or pursuant hereto), then such Assessments (or installments) shall, together with late charges, interest and the cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the Parcel as to which the Assessment was not paid, which lien shall bind and encumber such property.

In the case of a failure of a Sub-Association to pay any Assessments hereunder, the lien created hereby shall extend to and include each Unit subject to the jurisdiction of the Sub-Association, but the owner of a Unit subject to the Sub-Association's jurisdiction may obtain a partial release of such lien by paying an apportioned share of the overdue Assessment, and all other fees and charges related thereto, applicable to such Parcel. Such share shall be determined in the same manner as assessments of the Sub-Association itself are allocated. Upon the payment of such proportionate share, the paying Unit owner shall be entitled to recover the amount paid, plus interest thereon at the legal rate and the costs of collection thereof, from the Sub-Association to the extent same collected the assessment from the owner.

If any installment of an Assessment is not paid within fifteen (15) days after the due date, at the option of the Board, a late charge not greater than five percent (5%) of the amount of such unpaid installment may be imposed. However, only one late charge may be imposed on any one unpaid installment. If such installment is not paid thereafter, it and the late charge shall accrue interest as provided herein but shall not be subject to

additional late charges. Each other installment thereafter coming due shall be subject to one late charge each as aforesaid. All unpaid assessments due hereunder shall bear interest at the rate of eight percent (8%) per annum from the date when due until paid. All sums collected hereunder shall be applied first to interest, then to late charges, then to collection costs and then to assessments, beginning with the oldest which are unpaid.

In order to collect any sums due hereunder, the POA may: (i) bring an action at law against the Owner(s) obligated to pay the same; (ii) record and foreclose a claim of lien (as evidence of its lien rights as hereinabove provided for); or (iii) pursue one or more of such remedies at the same time or successively. All reasonable attorneys' fees and costs actually incurred in preparing and filing the claim of lien and the complaint, if any, and prosecuting same, in any such action shall be added to the amount of such Assessments, late charges and interest, as shall any reasonable attorneys' fees and costs incurred in enforcing such judgment and right to collection. In the event a judgment is obtained, such judgment shall include all such sums as above provided and reasonable attorneys' fees actually incurred together with the costs of the action, through all applicable appellate levels.

All Assessments, late charges, interest, penalties, fines, attorneys' fees and other sums provided for herein shall accrue to the benefit of the POA.

Section 9. Subordination of the Lien.

The lien of the Assessments provided for in this Article shall relate back to the date of the recording of this Declaration but shall be subordinate to real property tax liens and the lien of any first mortgage (recorded prior to recordation by the POA of a claim of lien) held by an institutional mortgage lender, as well as any Ground Lease, which is now or hereafter placed upon a Parcel, provided, however, that any such mortgage lender or Ground Lessor when in possession, or any receiver, and in the event of a foreclosure, any purchaser at a foreclosure sale, and any such mortgage lender acquiring a deed in lieu of foreclosure, and all persons claiming by, through or under such purchaser or mortgage lender, shall hold title subject to the liability and lien of any Assessment coming due after such foreclosure (or conveyance in lieu of foreclosure) or termination of the ground lease. Any unpaid Assessment which cannot be collected by way of a lien by reason of the provisions of this Section 9 shall be deemed to be an Assessment divided equally among, payable by and a lien against all Parcels subject to Assessment by the POA, including the Parcels as to which the foreclosure (or conveyance in lieu of foreclosure) took place. No mortgagee shall be required to collect Assessments. The lien provided for herein shall also be subject and subordinate to the lien for assessments set forth in the Village Declaration. Notwithstanding the foregoing, if the POA has been notified in writing of the existence of a tenant under a Ground Lease or mortgagee on any Parcel, then prior to the POA foreclosing on any lien under this Declaration, the POA shall first provide such tenant and/or mortgagee written notice of such claim for the lien and an opportunity to cure such lien within thirty (30) days following such tenant's and/or mortgagee's receipt of such written notice from the POA.

The POA shall promptly upon request (and in any event within twenty (20) days of the POA's receipt of such written request), provide written confirmation (in recordable form, if requested) to any mortgage holder or Ground Lessor that they have the status of such under this provision as well as the balance of this Declaration and such confirmation shall be binding and conclusive not only as to the POA but also any other party affected hereby.

Section 10. POA Funds.

The regular Assessments collected by the POA shall be held by the POA (or by a management entity in the POA's name) and may be invested in interest bearing accounts or in certificates of deposit or other like instruments or accounts available at banks or other financial institutions, the deposits of which are insured by an agency or chartered corporation of the United States.

ARTICLE VI
MAINTENANCE OF BUILDINGS AND PARCELS

Section 1. Exteriors of Buildings.

Each Owner shall maintain the exterior surfaces of the Building (including signage) and all structures and other non-Common Area (except a Limited Common Area as to which the Owner of the Parcel is assigned maintenance duties per this Declaration) improvements located on each Parcel in a neat orderly and attractive manner and consistent with the general appearance of The Properties. The minimum (though not sole) standard for the foregoing shall be consistency with the general appearance of The Properties as initially constructed and otherwise improved (taking into account, however, normal weathering and fading of exterior finishes, but not to the point of unsightliness, in the reasonable judgment of the POA).

Section 2. Parcels.

The Owner shall also maintain the trees, shrubbery, grass and other landscaping on each Parcel (and any Limited Common Area as to which the Owner is assigned maintenance duties by this Declaration, and all parking and driveway areas, lighting and irrigation systems and free-standing signage (other than Common Area signs) in a neat, orderly and attractive manner and consistent with the general appearance of The Properties as a whole. Without limiting the generality of the foregoing, each Parcel Owner shall be responsible for the installation and maintenance of sidewalks, swales and buffer landscaping on the Parcel adjacent to a Common Area roadway. The minimum (though not sole) standard for the foregoing shall be consistent with the general appearance of The Properties as initially landscaped and improved taking into account prevailing weather and seasonal fluctuations (such standard being subject to being raised by virtue of the natural and orderly growth and maturation of applicable landscaping, as properly trimmed and maintained). The foregoing maintenance requirements shall not apply to any

portion of a Parcel subject to the Rural Parkway Easement providing for the District to maintain such land.

Section 3. Remedies for Noncompliance.

In the event of the failure of an Owner to maintain a Building or Parcel in accordance with this Article, the POA shall have the right, upon thirty (30) days' prior written notice to the Owner (and to any tenant of Owner which Owner has notified the existence of in writing to the POA) at the address last appearing in the records of the POA, to enter upon the subject Parcel and perform such work as is necessary to bring the Building into compliance with the standards set forth in this Article. The remedies provided for herein shall be cumulative with all other remedies available under this Declaration (including, without limitation, the imposition of fines or Special Assessments or the filing of legal or equitable actions).

Section 4. Costs of Remedial Work; Surcharges.

In the event that the POA performs any remedial work on a Building pursuant to this Article, the costs and expenses thereof shall be deemed a Special Assessment under Article V Section 2. of this Declaration and may be immediately imposed by the Board of Directors. In order to discourage Owners from abandoning certain duties hereunder for the purpose of forcing the POA to assume same, and, additionally, to reimburse the POA for administrative expenses incurred, the Board of Directors may impose a surcharge of not more than ten percent (10%) of the cost of the applicable remedial work, such surcharge to be a part of the aforesaid Special Assessment. No bids need be obtained for any of the work performed pursuant to this Article and the person(s) or company performing such work may be selected by the POA in its sole reasonable discretion.

Section 5. Right of Entry.

There is hereby created an easement in favor of the POA and its applicable designees over each Parcel for the purpose of entering onto such Parcel in the performance of the work herein described, provided that the notice requirements of this Article are complied with and any such entry is during reasonable hours.

Section 6. Limited Exemption for Construction.

To the extent that a Unit on a Parcel is under construction the provisions of this Article shall not apply to such Parcel until such time as the construction of the improvements thereon is completed as evidenced by the issuance of a certificate of occupancy therefor.

Notwithstanding the foregoing, each Parcel upon which construction (including, grading and site work) is being conducted shall be maintained in good order using best practices for such activities. Without limiting the generality of the foregoing, debris shall be kept in dumpsters and promptly removed as frequently as necessary, no unsightly

plant growth shall be permitted, no run-off of soil or any other substance onto another Parcel, Common Areas or public roads shall be permitted and appropriate fencing shall be installed so as to adequately prevent unauthorized entry onto the Parcel. Declarant may impose additional requirements and restrictions for construction activities on a particular Parcel(s) per an agreement with the Owner thereof.

ARTICLE VII **CERTAIN USE RESTRICTIONS**

Section 1. Compliance with Governmental Requirements.

All portions of The Properties shall be developed, occupied, used and maintained in accordance with all Governmental Requirements.

Section 2. Prohibited Uses.

The following uses shall be prohibited within The Properties: (i) the operation of a convenience store operated by a national convenience store chain, including, without limitation, Cumberland Farms, Circle K, Stop N Shop, On the Run, High's, QuickChek, Store 24, WaWa, or Kwik Stop and (ii) the retail sale of motor fuels or a car wash.

Section 3. Additional Restrictions.

The Declarant may, in the event of a conveyance of a Parcel, impose additional use restrictions and conditions upon such Parcel as Declarant may desire and may, but shall not be required to, assign the right to enforce same to the POA in whole or in part and on an exclusive or non-exclusive basis.

Section 4. Alterations of Common Areas.

No Owner shall make any alterations to the Common Areas (including the SWMS); provided, however, that an Owner may alter the (easement) Common Areas within the Owner's applicable Parcel if approved by the POA (and SFWMD as to alterations to the SWMS) in its sole discretion, with the plans for, and construction of, such alteration to be governed as provided in Section 5 of this Article. In the event any such alteration increases the costs of the POA's maintenance of the applicable Common Areas or any other related expenses of the POA, then the amount of increase shall be levied against the Parcel as a Benefited Assessment.

Section 5. Use of Common Areas.

No Common Areas shall be used for purposes other than their usual and customary intended purpose (*i.e.*, parking, driveway, pedestrian access, landscaping and signs) without the prior written approval of the POA (not to be unreasonably withheld), including such conditions as the POA may reasonably impose. By way of example only,

a party wishing to have a special event in the Common Areas within a particular Parcel may be approved to do so on reasonable conditions, such as providing proof of insurance, scheduling of the event and restrictions on temporary installations such as tents and signs and similar conditions.

Section 6. Architectural Review.

No building, wall, fence or other structure or improvement of any nature (including, but not limited to, hedges, other landscaping, exterior paint or finish, play structures, awnings, shutters, hurricane protection, decorative plaques or accessories, site furniture, swales, asphaltting, sidewalk/driveway surfaces or treatments or other improvements or changes of any kind, even if not permanently affixed to the land or to other improvements) shall be erected, placed or altered on any Parcel until the construction plans and specifications and a plan showing the location of the structure and landscaping or of the materials as may be required by the Architectural Review Committee (the "**ARC**") which shall be a committee appointed by the Board of Directors of the Association, absent such appointment with the Board to serve in such capacity have been reasonably approved, if at all, in writing by the ARC and all necessary permits and approvals under any and all Governmental Requirements are obtained. Each building, wall, fence or other structure, improvement or alteration of any nature, together with landscaping, shall be erected, placed or altered upon a Parcel only in accordance with the plans and specifications and Parcel plan approved by the ARC and per all applicable Governmental Requirements. Refusal of approval of plans, specifications and Parcel plans, or any of them, may be based on any reasonable ground, including purely aesthetic grounds, which in the sole and reasonable discretion of said ARC seem reasonably sufficient. Any material change in the exterior appearance of any building, wall, fence or other structure or improvements, and any material change in the appearance of the landscaping, shall be deemed an alteration requiring approval. The ARC shall have the power to promulgate such rules and regulations as it deems reasonably necessary to carry out the provisions and intent of this paragraph. A majority of the ARC may take any action it is empowered to take, may designate a representative to act for it and may employ personnel and consultants to act for it. In the event of death, disability or resignation of any member of the ARC, the remaining members shall have full authority to designate a successor. The members of the ARC shall not be entitled to any compensation for services performed pursuant to this covenant, unless engaged by the Association in a professional capacity. The ARC shall act on submissions to it within thirty (30) days after receipt of the same (and all further documentation required) or else the request shall be deemed approved seven (7) days after the applicant gives the ARC notice of a lack of response to a request for approval.

In the event that any proposed improvements (including structures, appurtenances, signage and the like, other than temporary window, free standing and gas pump signs) is per standard plans for any national or regional business whose facilities are usually and customarily constructed in accordance with one or more of such standard plans (subject to variations by virtue of local building and other codes), the ARC shall use its commercially reasonable efforts to expedite the review of such plans and shall not unreasonably withhold, condition or delay their approval. Further, any such national or regional business shall be

entitled to install, modify and replace signage (whether permanent or temporary) on a Parcel without obtaining the approval of the ARC for each such installation, modification or replacement.

In the event that any new improvement or landscaping is added to a Parcel, or any existing improvement on a Parcel is altered in any material respect, in violation of this Section, the Association shall have the right (and an easement and license) to enter upon the applicable Parcel and remove or otherwise remedy the applicable violation after giving the Owner of the Parcel (and any tenant of Owner which Owner has notified the existence of in writing to the POA) at least thirty (30) days prior written notice of, and opportunity to cure, the violation in question. The costs of such remedial work and a surcharge of a minimum, but in no event more than ten percent (10%) of the aforesaid costs, shall be a Special Assessment against the Parcel, which assessment shall be payable upon demand and secured by the lien for assessments provided for in this Declaration.

The approval of any proposed improvements or alterations by the ARC shall not constitute a warranty or approval as to, and neither the Association nor any member or representative of the ARC or the Board of Directors shall be liable for, the safety, soundness, workmanship, materials or usefulness for any purpose of any such improvement or alteration nor as to its compliance with governmental or industry codes or standards. By submitting a request for the approval of any improvement or alteration, the requesting Owner shall be deemed to have automatically agreed to hold harmless and indemnify the aforesaid members and representatives, and the Association generally, from and for any loss, claim for damages connected with the aforesaid aspects of the improvements or alterations.

The foregoing provisions shall not be applicable to (i) the Declarant or its affiliates or any Parcel subject to separate construction standards enforceable by Declarant, (ii) to Parcel 1 as to the initial development of Parcel 1 as a convenience store including the retail sale of motor fuels and related car wash, or (iii) to Parcel 1 as to new improvements or alterations which are consistent with 7-Eleven, Inc.'s then-current prototypical designs for a convenience store including the retail sale of motor fuels and related car wash. The approvals required by this Section are in addition to those required by the Governmental Requirements to the extent applicable.

Section 7. Additional Rules and Regulations.

The Board of Directors may adopt and amend, from time to time, additional rules and regulations of governing the use of the Common Areas applicable uniformly to all Owners without the necessity of recording an amendment hereto or thereto in the public records.

ARTICLE VIII
DAMAGE OR DESTRUCTION TO COMMON AREAS

Damage to or destruction of all or any portion of the Common Areas shall be handled in the following manner, notwithstanding any provision in this Declaration to the contrary:

(a) In the event of damage to or destruction of the Common Areas, if the insurance proceeds are sufficient to effect total restoration, then the POA shall cause such portions of the Common Areas to be repaired and reconstructed substantially as they previously existed.

(b) If the insurance proceeds are within Five Hundred Thousand Dollars (\$500,000.00) or less of being sufficient to effect total restoration of the Common Areas, then the POA shall cause the damaged or destroyed portions of the Common Areas to be repaired and reconstructed substantially as they previously existed and the difference between the insurance proceeds and the actual cost shall be levied as a capital improvement assessment against all of the Owners in their respective shares in accordance with the provisions of Article V of this Declaration.

(c) If the insurance proceeds are insufficient by more than Five Hundred Thousand Dollars (\$500,000.00) to effect total restoration of the Common Areas, then by written consent or vote of the holders of at least two-thirds (2/3rds) of the votes in the POA, subject to Article IX hereof, the Association shall decide whether: (1) to rebuild and restore in a way which is less expensive than replacing the Common Areas in substantially the same manner as they existed prior to being damaged; or (2) subject to the approval of the Board, to not rebuild and to retain the available insurance proceeds. Anything to the contrary herein notwithstanding, no decision not to rebuild or to rebuild in a manner which would result in a change in the Common Areas shall be effective without the written approval of the Board and any Owner that would be materially adversely affected by the decision to not rebuild the affected Common Areas, which can require rebuilding as it deems appropriate. If the requisite vote for either of the options set forth above, as well as the Board's approval, is not obtained, then the POA shall proceed with rebuilding per subsection (b), above.

(d) Each Owner shall be liable to the POA for any damage to the Common Areas not fully covered by collected insurance which may be sustained by reason of the negligence or willful misconduct of any Owner or its Owner's Permittees. Notwithstanding the foregoing, the POA reserves the right to charge such Owner an assessment equal to the increase, if any, in the insurance premium directly attributable to the damage caused by such Owner. In the case of joint ownership of a Parcel, the liability of such Owner shall be joint and several. The cost of correcting such damage shall be an assessment against the Owner and may be collected as provided herein for the collection of assessments.

ARTICLE IX **INSURANCE**

Section 1. Common Areas.

The POA shall keep all insurable improvements, facilities and fixtures, if any, located within the Common Areas insured against loss or damage by fire or other casualty for the full insurable replacement value thereof (with reasonable deductibles and normal exclusions for land, foundations, excavation costs and similar matters), and may obtain insurance against such other hazards and casualties as the POA may deem reasonably desirable. The POA may also insure any other property, whether real or personal, owned by the POA, against loss or damage by fire and such other hazards as the POA may deem reasonably desirable, with the POA as the owner and beneficiary of such insurance for and on behalf of itself and all Owners. The insurance coverage with respect to the Common Areas shall be written in the name of, and the proceeds thereof shall be payable to, the POA. Insurance proceeds shall be used by the POA for the repair or replacement of The Properties for which the insurance was carried. Premiums for all insurance carried by the POA are common expenses included in the Assessments made by the POA. All such insurance policies shall contain standard mortgagee clauses, if applicable.

Section 2. Replacement or Repair of Property.

In the event of damage to or destruction of any portion of the Common Areas, the POA shall repair or replace the same from the insurance proceeds available, subject to the provisions of Article VIII of this Declaration.

Section 3. Waiver of Subrogation.

As to each policy of insurance maintained by the POA which will not be voided or impaired thereby, the POA hereby waives and releases all claims against the Board, the Owners, Declarant and the agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by said persons, but only to the extent that insurance proceeds are received in compensation for such loss.

Section 4. Liability and Other Insurance.

The POA shall have the power to and shall obtain comprehensive public liability insurance, including medical payments and malicious mischief, with coverage of at least \$1,000,000.00 (if available at reasonable rates and upon reasonable terms) for any single occurrence, insuring against liability for bodily injury, death and property damage arising from the activities of the POA or with respect to property under its jurisdiction, including, if obtainable, a cross liability endorsement insuring each Owner against liability to each other Owner and to the POA and vice versa and coverage for legal liability resulting from lawsuits related to employment contracts shall also be maintained. The POA may also obtain Worker's Compensation insurance and other liability insurance as it may deem

reasonably desirable, insuring each Owner and the POA and its Board of Directors and officers, from liability, the reasonable premiums for which shall be common expenses and included in the assessments made against the Owners. The POA may also obtain such other insurance as the Board deems reasonably appropriate. All insurance policies shall be reviewed at least annually by the Board of Directors and the limits increased in its reasonable discretion.

The Board of Directors of the POA may also obtain such errors and omissions insurance, indemnity bonds, fidelity bonds and other insurance as it deems reasonably advisable, insuring the Board or any management company engaged by the POA against any liability for any act or omission in carrying out their obligations hereunder, or resulting from their Ownership on the Board or any committee thereof. At a minimum, however, there shall be blanket fidelity bonding/crime insurance of anyone (compensated or not) who handles or is responsible for funds held or administered by the POA, with the POA to be an obligee thereunder. Such bonding shall cover the maximum funds to be in the hands of the POA or management company during the time the bond is in force.

ARTICLE X **MORTGAGEE PROTECTION**

The following provisions included herein hereto (and to the extent these provisions conflict with any other provisions of the Declaration, these provisions shall control):

(a) The POA shall be required to make available to all Owners and Mortgagees, and to insurers and guarantors of any first Mortgage, for inspection, upon request, during normal business hours or under other reasonable circumstances, current copies of this Declaration (with all amendments) and the Articles, By-Laws and rules and regulations and the books and records of the POA. Furthermore, such persons shall be entitled, within thirty (30) days of written request, to: (i) receive a copy of the POA's financial statement for the immediately preceding fiscal year; (ii) receive notices of and attend the POA meetings; (iii) receive notice from the POA of an alleged default by an Owner in the performance of such Owner's obligations under this Declaration, the Articles of Incorporation or the By-Laws of the POA, which default is not cured within thirty (30) days after the POA learns of such default; and (iv) receive notice of any substantial damage or loss to the Common Areas.

(b) Any holder, insurer or guarantor of a Mortgage on a Parcel and/or any tenant under Ground Lease on a Parcel shall have, if first requested in writing, the right to timely written notice of: (i) any condemnation or casualty loss affecting a material portion of the Common Areas; (ii) a sixty (60) day delinquency in the payment of the Assessments on a mortgaged Parcel; (iii) the occurrence of a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the POA; and (iv) any proposed action which requires the consent of a specified number of Mortgage holders.

(c) Unless at least 66-2/3% of first Mortgagees (based upon one vote for each Mortgage owned), and the Owners holding at least two-thirds (2/3rds) of the votes entitled to be cast by them, have given their prior written approval, neither the POA nor the Owners shall:

(1) by act or omission seek to sell or transfer the Common Areas and any improvements thereon which are owned by the POA (the granting of easements for utilities or for other such purposes consistent with the intended use of such property by the POA or the Declarant or the transfer of the Common Areas to another similar POA of the Owners in accordance with the Articles of Incorporation of the POA or dedication of such property to the public shall not be deemed a transfer within the meaning of this clause);

(2) change the basic methods of determining the obligations, assessments, dues or other charges which may be levied against a Parcel, except as provided herein with respect to future Parcels;

(3) by act or omission, waive or abandon any scheme or regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of The Properties;

(4) fail to maintain fire and extended insurance on insurable portions of the Common Areas as provided herein; or

(5) use hazard insurance proceeds for losses to any Common Areas for other than the repair, replacement or reconstruction of the improvements.

(d) The provisions of this Article shall also accrue to the benefit of a Ground Lessor, who/which shall have all rights and protections of a mortgagee hereunder.

ARTICLE XI

GENERAL PROVISIONS

Section 1. Duration.

The covenants and restrictions of this Declaration shall run with and bind The Properties, and shall inure to the benefit of the POA, and the Owner of any Parcel or other land subject to this Declaration, 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 said covenants shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by the then Owners of all the Parcels subject hereto has been recorded, agreeing to revoke said covenants and restrictions; provided, however, that no such agreement to revoke shall be effective unless made and recorded three (3) years in advance of the effective date of such revocation, and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any signatures being obtained.

Section 2. Notice.

Any notice required to be sent to any Owner or Owners under the provisions of this Declaration shall be deemed to have been properly sent when personally delivered or mailed, certified and postpaid, to the last known address of the person who appears as Owner or Owner on the records of the POA at the time of such mailing.

Section 3. Enforcement.

Enforcement of these covenants and restrictions shall be accomplished by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the Parcels to enforce any lien created by these covenants; and failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Such right of enforcement shall include the right of all Owners (or such Owner's Ground Tenant, provided such Ground Tenant's lease is still in effect) to take action against the Association to enforce its covenants to maintain the applicable portions of The Properties and otherwise enforce, and perform its other duties under, this Declaration as provided herein or otherwise. The South Florida Water Management District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation and repair of the Stormwater Management System.

Section 4. Severability.

Invalidation of any one of these covenants or restrictions or any part, clause or word hereof, or the application thereof in specific circumstances, by judgment or court order shall not affect any other provisions or applications in other circumstances, all of which shall remain in full force and effect.

Section 5. Amendment.

The covenants, restrictions, easements, charges and liens of this Declaration may be amended, changed, deleted or added to at any time and from time to time upon the execution and recordation of an instrument executed by the Declarant alone, for so long as it or its affiliates holds title to any Parcel affected by this Declaration; or alternatively by a meeting of Owners holding not less than 66-2/3% of all votes cast Ownership in the POA (as opposed to only those Owners represented at a meeting of the POA), provided, that so long as the Declarant or its affiliates is the Owner of any Parcel affected by this Declaration, the Declarant's consent must be obtained if such amendment, in the sole opinion of the Declarant, affects its interest; and further provided, however, no amendment shall be effective if it increases the burdens, obligations, or restrictions on a Parcel or diminishes the rights, privileges or benefits on a Parcel, unless consented to and approved by the Owner of such Parcel. The foregoing sentence and the provisions of this Section reserving amendment powers in the Declarant may not be amended.

Further, no provisions of this Declaration may be amended if it alters or impairs, benefits or privileges of a Declarant unless Declarant consents to same.

Any amendment to this Declaration which alters the Surface Water Management System, must have the prior approval of the South Florida Water Management District as provided in Article XIII, Section 4. hereof.

Section 6. Effective Date.

This Declaration shall become effective upon its recordation in the County Public Records.

Section 7. Conflict.

This Declaration shall take precedence over conflicting provisions in any rules and regulations and in the Articles of Incorporation and By-Laws of the POA and said Articles shall take precedence over the By-Laws.

Section 8. Interpretation.

This Declaration shall be interpreted by the Board of Directors and an opinion of counsel to the POA or the counsel having drafted this Declaration rendered in good faith that a particular interpretation is not unreasonable shall conclusively establish the validity of such interpretation.

Section 9. Easements.

Should the intended creation of any easement provided for in this Declaration fail by reason of the fact that at the time of creation there may be no grantee in being having the capacity to take and hold such easement, then any such grant of easement deemed not to have been so created shall nevertheless be considered as having been granted directly to the POA as agent for such intended grantees for the purpose of allowing the original party or parties to whom the easements were originally intended to have been granted the benefit of such easement and the Owners designate hereby the Declarant and the POA (or either of them) as their lawful attorney-in-fact to execute any instrument on such Owners' behalf as may hereafter be required or deemed necessary for the purpose of later creating such easement as it was intended to have been created herein. Formal language of grant or reservation with respect to such easements, as appropriate, is hereby incorporated in the easement provisions hereof to the extent not so recited in some or all of such provisions.

Section 10. Notices and Disclaimers as to Water Bodies.

NEITHER DECLARANT, THE POA NOR ANY OF THEIR OFFICERS, DIRECTORS, OWNERS, EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OR SUBCONTRACTORS (COLLECTIVELY, THE "**LISTED PARTIES**") SHALL BE

LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE SAFETY, WATER QUALITY OR WATER LEVEL OF/IN ANY LAKE, POND, CANAL, CREEK, STREAM OR OTHER WATER BODY WITHIN THE PROPERTIES, EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY, OR CONTRACTED FOR WITH, AN APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY OR AUTHORITY. FURTHER, NONE OF THE LISTED PARTIES SHALL BE LIABLE FOR ANY PROPERTY DAMAGE, PERSONAL INJURY OR DEATH OCCURRING IN, OR OTHERWISE RELATED TO, ANY WATER BODY, ALL PERSONS USING SAME DOING SO AT THEIR OWN RISK.

ALL OWNERS AND USERS OF ANY PORTION OF THE PROPERTIES LOCATED ADJACENT TO OR HAVING A VIEW OF ANY OF THE AFORESAID WATER BODIES SHALL BE DEEMED, BY VIRTUE OF THEIR ACCEPTANCE OF THE DEED TO OR USE OF, SUCH PROPERTY, TO HAVE AGREED TO RELEASE THE LISTED PARTIES FROM ALL CLAIMS FOR ANY AND ALL CHANGES IN THE QUALITY AND LEVEL OF THE WATER IN SUCH BODIES.

ALL PERSONS ARE HEREBY NOTIFIED THAT FROM TIME TO TIME ALLIGATORS AND OTHER WILDLIFE MAY INHABIT OR ENTER INTO WATER BODIES WITHIN OR NEARBY THE PROPERTIES AND MAY POSE A THREAT TO PERSONS AND PROPERTY, BUT THAT THE LISTED PARTIES ARE UNDER NO DUTY TO PROTECT AGAINST, AND DO NOT IN ANY MANNER WARRANT OR INSURE AGAINST, ANY DEATH, INJURY OR DAMAGE CAUSED BY SUCH WILDLIFE.

Section 11. Covenants Running With the Land.

Anything to the contrary herein notwithstanding and without limiting the generality (and subject to the limitations) of Section 1. hereof, it is the intention of all parties affected hereby (and their respective heirs, personal representatives, successors and assigns) that these covenants and restrictions shall run with the land and with title to the properties. Without limiting the generality of Section 4. hereof, if any provision or application of this Declaration would prevent this Declaration from running with the land as aforesaid, such provision and/or application shall be judicially modified, if at all possible, to come as close as possible to the intent of such provision or application and then be enforced in a manner which will allow these covenants and restrictions to so run with the land; but if such provision and/or application cannot be so modified, such provision and/or application shall be unenforceable and considered null and void in order that the paramount goal of the parties (that these covenants and restrictions run with the land as aforesaid) be achieved.

ARTICLE XII
SURFACE WATER MANAGEMENT SYSTEM

Section 1. Operation.

The POA shall be responsible for the maintenance, operation and repair of the Surface Water Management System to the extent not performed by the City or District.

Maintenance shall mean the exercise of practices which allow the system to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted and required by the SFWMD. The POA shall be responsible for such maintenance and operation. Any repair or reconstruction of the Surface Water Management System shall be as permitted, or if modified, as approved, by the South Florida Water Management District. In the event that any portion of the Surface Water Management System is located on a Parcel, the applicable portion of the Parcel is hereby declared to be subject to an easement for the performance of the aforesaid activities by the POA.

The POA shall have a perpetual non-exclusive easement over all areas of the Surface Water Management System for access to operate, maintain or repair the System. By this easement, the POA shall have the right to enter upon any portion of any Parcel which is a part of the Surface Water Management System, at a reasonable time and in a reasonable manner, to operate, maintain or repair the Surface Water Management System as required by the South Florida Water Management District permit. Additionally, the POA shall have a perpetual non-exclusive easement for drainage over the entire Surface Water Management System. No person shall alter the drainage flow of the Surface Water Management System, including buffer areas or swales, without the prior written approval of the South Florida Water Management District and the POA.

Section 2. Ownership.

The Surface Water Management System is to be deemed to be owned by the POA, notwithstanding that it may not hold fee simple title to all of the land within which portions of the SWMS are located, particularly when located on a Parcel.

Section 3. Costs.

The Association is responsible for assessing and collecting fees for the operation maintenance, and, if necessary, replacement of the Surface Water Management System. Fees shall be assessed and collected through the fee assessment process as set forth in Article V.

Section 4. Amendments.

Any amendment proposed to these documents which would affect the Surface Water Management System, conservation areas or water management portions of Common Areas shall be submitted to the SFWMD for review prior to finalization of the amendment. The SFWMD shall determine if the proposed amendment will require a modification of the environmental resource or surface water management permit. If a permit modification is necessary, the modification must be approved by the SFWMD prior to the amendment of this document.

Section 5. Mitigation.

Monitoring and maintenance of any mitigation area, described in a SFWMD Permit Number(s) 50-07085-P, shall be the responsibility of the POA. The POA must successfully complete the mitigation and satisfy all applicable permit conditions.

Section 6. Permit.

The Environmental Resource or Surface Water Management Permit is made a part of this document and is described in a separate notice thereof recorded or to be recorded in the Public Records of the County. Copies of the permit and any future permit actions of the SFWMD shall be maintained by the Registered Agent of the POA for the benefit of the POA.

Section 7. Enforcement.

The SFWMD has the right to take any enforcement action, including a civil action for an injunction and penalties, against the association to compel it to correct any outstanding problems with the Surface Water Management System facilities or in mitigation or conservation areas under the responsibility or control of the POA.

Section 8. Independent Drainage Systems.

It is currently contemplated that Parcel "F" and Parcel "G" shall have their own surface water drainage systems (and Environmental Resource Permits for same) such that they will not make use of the Surface Water Management System operated pursuant to this Declaration. Accordingly, and notwithstanding the provisions of Article V, Section 3, the Assessments payable for such Parcels shall not include expenses for the operation, maintenance and repair of the Surface Water Management System. Additionally, the Owners of such Parcel shall operate their own drainage systems in a manner which does not impair or interfere with the Surface Water Management System and which is in compliance with their respective Environmental Resource Permits.

ARTICLE XIII
DISCLAIMER OF LIABILITY OF THE POA

NOTWITHSTANDING ANYTHING CONTAINED HEREIN OR IN THE ARTICLES OF INCORPORATION, BY-LAWS, ANY RULES OR REGULATIONS OF THE POA OR ANY OTHER DOCUMENT GOVERNING OR BINDING THE POA (COLLECTIVELY, THE "**POA DOCUMENTS**"), THE POA SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OWNER'S PERMITTEE, OCCUPANT OR USER OF ANY PORTION OF THE PROPERTIES INCLUDING, WITHOUT LIMITATION, OWNERS AND THEIR OWNER'S PERMITTEES OR FOR ANY PROPERTY OF ANY SUCH

PERSONS, EXCEPT TO THE EXTENT CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF THE POA.

WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

(a) IT IS THE EXPRESS INTENT OF THE POA DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH ARE ENFORCEABLE BY THE POA AND WHICH GOVERN OR REGULATE THE USES OF THE PROPERTIES HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF THE PROPERTIES AND THE VALUE THEREOF;

(b) THE POA IS NOT EMPOWERED, AND HAS NOT BEEN CREATED, TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE UNITED STATES, STATE OF FLORIDA, THE COUNTY, THE CITY AND/OR ANY OTHER JURISDICTION OR THE PREVENTION OF TORTIOUS ACTIVITIES; AND

(c) ANY PROVISIONS OF THE POA DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY AND/OR WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF THE POA TO PROTECT OR FURTHER THE HEALTH, SAFETY OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

EACH OWNER OF ANY PORTION OF THE PROPERTIES (BY VIRTUE OF THE ACCEPTANCE OF TITLE THERETO) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING ANY USE OF, ANY PORTION OF THE PROPERTIES (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USES) SHALL BE BOUND BY THIS ARTICLE AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE POA ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF THE POA HAS BEEN DISCLAIMED IN THIS ARTICLE.

AS USED IN THIS ARTICLE, "**POA**" SHALL INCLUDE WITHIN ITS MEANING ALL OF THE POA'S DIRECTORS, OFFICERS, COMMITTEE AND BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES), SUBCONTRACTORS, SUCCESSORS AND ASSIGNS. THE PROVISIONS OF THIS ARTICLE SHALL ALSO INURE TO THE BENEFIT OF THE DECLARANT AND ALL PARTIES RELATED THERETO, ALL OF WHICH SHALL BE FULLY PROTECTED HEREBY.

(SIGNATURE PAGE FOLLOWS)

EXECUTED as of the date first above written.

WITNESSES:

MINTO PBLH, LLC, a Florida limited liability company

Print Name:_____

By:_____

Name:_____

Title:_____

Print Name:_____

STATE OF FLORIDA)
)
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ____ day of _____, 2021, by _____, as _____ of Minto PBLH, LLC, a Florida limited liability company, on behalf of the company, who is personally known to me or has produced a _____ as identification.

(Notary Seal)

Notary Public State of Florida at Large
Name Printed:_____
My Commission Expires:_____
Commission No.:_____

EXHIBIT "A"
LEGAL DESCRIPTION OF THE PROPERTIES

Westlake POD H according to the Plat thereof recorded in Plat Book 129,
Page 135 of the Public Records of Palm Beach County, Florida.

EXHIBIT "B"
LEGAL DESCRIPTIONS OF INITIAL COMMON AREAS

All easements for the Surface Water Management System

All easements for roadways

All easements for monument and directional signs

Fee simple title to the Dry Retention Area described in Article IV, Section 2 and depicted on Exhibit "C-1"

EXHIBIT "C"
ALLOCATION OF ASSESSMENTS AND VOTES

<u>PARCEL NO.</u>	<u>ALLOCATED ASSESSMENTS UNITS AND VOTES</u>
A-1	2
A-2	1
B-1	1
B-2	1
C	2
D	2
E	5
F	14
G	17
	Total 45

NOTE: The Site Plan attached as Exhibit "C-1" is subject to change from time to time. Should any change necessitate a revision to this Exhibit "C" or the Declaration, such change shall be made by Declarant by appropriate amendment.

EXHIBIT "C-1"
SITE PLAN

EXHIBIT "D"
ARTICLES OF INCORPORATION

EXHIBIT "E"
BY-LAWS