

Prepared by and return to:  
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**CERTIFICATE OF AMENDMENT TO THE  
PROTECTIVE COVENANTS FOR CAPTAIN'S KEY**

**WHEREAS**, the governance of CAPTAIN'S KEY PROPERTY OWNER'S ASSOCIATION, INC. ("CAPTAIN'S KEY") is regulated by those certain Protective Covenants for Captain's Key (the "Protective Covenants") as being recorded in the Public Records of Palm Beach County Official Records Book 1660 at Page 639; and,

**WHEREAS**, at a meeting of the members, held pursuant to the provisions of the Protective Covenants on March 25, 2008 and as continued April 15, 2008 the a majority of the member of CAPTAIN'S KEY approved the Amended and Restated Protective Covenants and the Amended and Restated Bylaws of CAPTAIN'S KEY,

**WHEREAS**, the Board of Directors has directed that the Amended and Restated Protective Covenants and the Amended and Restated Bylaws of CAPTAIN'S KEY shall, based on the approval of such documents by the membership, be recorded amongst the Public Records of Palm Beach County so as to provide public notice of the due adoption of the Amended and Restated Protective Covenants and the Bylaws of CAPTAIN'S

KEY.

**NOW THEREFORE, THE UNDERSIGNED**, being the President and Secretary of the Board of Directors of CAPTAIN'S KEY PROPERTY OWNER'S ASSOCIATION, a Florida non-profit corporation established for administration of that certain community commonly known as CAPTAIN'S KEY, DO HEREBY CERTIFY that the Exhibit "A", attached hereto and made a part hereof, constitute the Amended and Restated Protective Covenants and the Amended and Restated Bylaw of the CAPTAIN'S KEY PROPERTY OWNER'S ASSOCIATION, as been previously approved and adopted by the vote of the members of the corporation.

IN WITNESS WHEREOF, we have signed this Certificate of Amendment the 10 day of July, 2008.

**CAPTAIN'S KEY PROPERTY OWNER'S ASSOCIATION (CORPORATE SEAL)**

By: Joseph Frederick D'Mare  
As President  
JOSEPH FREDERICK DIMARE

By: [Signature]  
Attest as Secretary  
DWIGHT WILSON

**STATE OF FLORIDA  
COUNTY OF PALM BEACH**

BEFORE ME, this 10<sup>th</sup> day of July, 2008, the undersigned authority duly authorized to administer Oaths and take acknowledgments personally appeared Joseph Frederick D'Mare and Dwight Wilson as President and Secretary of Captain's Key POA, who did execute the foregoing Certificate and did state that such Certificate was executed on behalf of the Association and that the matters stated therein are true and were given with all necessary corporate authority.

Brenda B. Armstrong  
Brenda B. Armstrong  
Commission # DD392164  
Expires: FEB. 02, 2009  
www.AARONNOTARY.com

**AMENDED AND RESTATED PROTECTIVE COVENANTS  
FOR CAPTAIN'S KEY**

**THIS AMENDED AND RESTATED DECLARATION** for Captain's Key is made this 15th day of April, 2008, by Captain's Key Property Owner's Association, a Florida not-for-profit corporation (the "Association").

**WHEREAS**, Armstrong Building Corporation, a Florida corporation (the "Declarer"), recorded a Protective Covenant for Captain's Key (the "Declaration") in Official Records Book 1660 at Page 639 of the Public Records of Palm Beach County, Florida which established restrictions, limitations, conditions and reservations which applies to each and every part and parcel of land described in the attached Exhibit "A" hereto (the "Property"), which Declaration has been revived pursuant to those certain Revived Protective Covenants for Captain's Key as recorded in Official Records Book 19678 at Page 0029 (the "Revived Protective Covenants"); and,

**WHEREAS**, the Association is the entity created to administer and enforce the Declaration; and the Declaration affects the Property; and,

**WHEREAS**, the Association, and its members, have determined that it is desirable to amend and restate the provisions of the Declaration to address the current and future issues associated with the administration of the Association and to account for both changes in law so as to facilitate the orderly and lawful administration of the Association.

**NOW THEREFORE**, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Association hereby declares that the Property shall henceforth be subject to the following Amended and Restated Protective Covenants for Captain's Key, each and all provisions of which is and are for the benefit of said Property and of each present and future owner thereof or of any part thereof, and shall inure to the benefit of and pass with said property and each and every part thereof, and shall apply and bind every present and future owner of said property, or any part thereof, and their and each of their heirs, successors, legal representatives and assigns:

**PARAGRAPH I**

**PROPERTY SUBJECT TO THIS DECLARATION**

The real property which is and shall be held, transferred, sold conveyed, used and occupied subject to the protective covenants with respect to the various portions thereof set forth in the various paragraphs and subdivisions of this Declaration, is located in Palm Beach County, Florida, and is more particularly described as follows:

See attached Exhibit "A"

**PARAGRAPH II**

**GENERAL PURPOSES OF COVENANTS**

The real property described in Paragraph I hereof is subject to the protective covenants are hereby declared to insure the best and the most appropriate development and improvement of each lot thereof, to protect the owners of lots against such improper use of surrounding lots as will depreciate the value of their property; to preserve, to the extent practicable, the natural beauty of said property; to guard against the erection thereof of poorly designed or proportioned structures and structures built of unsuitable materials; to insure the highest and best development of said property; to encourage and secure the erection of attractive homes thereon, with appropriate locations thereof on the lot; to prevent haphazard and inharmonious improvements of the lot; to secure and maintain proper setbacks from streets and adequate free spaces between structures; and, in general, to provide adequately for a high type and quality of improvements in said property, and thereby enhance the property and investments made by purchasers of lots therein.

**PARAGRAPH III**

**DEFINITION OF TERMS**

1. Dwelling House, Building, Out-Building. The words "dwelling house", "building" and "out-building", wherever used in this Declaration, shall be deemed and construed to include both the main portion of such structure and all projections therefrom, such as bay, bow, or oriel windows, exterior chimneys, porches, stoops, and the like, including garages incorporated in or forming a part

thereof, but shall not include the unsupported eaves of such structures.

2. Said Property. The words "said property", wherever used in this Declaration, mean and refer to the property which is platted as CAPTAIN'S KEY described in aforesaid Paragraph I.

3. Setback. The term "setback", wherever used in this Declaration, means the distance between dwelling houses or other structures referred to and the street or side or rear boundary lines of the particular lot.

4. Street. The term "street", wherever used in this Declaration, means and refers to any street, highway or other thoroughfare shown on said Plat of CAPTAIN'S KEY or contiguous to the real property designated on said plat, whether designated thereon as street, avenue, boulevard, drive, place, court, road, terrace, way, circle, lane, trail or walk.

5. Common Area. The words "common area" mean and include all those areas of Said Property not included in the lots which are to be maintained by the Association.

6. Lot. The term "lot", wherever used in this Declaration, means and refers to the numbered lots described in said Plat.

7. Owner. The term "owner", wherever used in this Declaration, shall mean the owner of each of the respective individual lots referred to in Paragraph 6 above.

8. Association. The term "Association", wherever used in the Declaration, shall refer to and mean the CAPTAIN'S KEY PROPERTY OWNERS ASSOCIATION, INC., a Florida corporation not for profit.

9. Committee. The term "Committee", wherever used herein, shall refer to and mean the Architectural Committee described herein.

#### PARAGRAPH IV

#### MINIMUM STANDARDS AND PROHIBITED USES

The following minimum standards and prohibited uses shall be applicable to all lots shown on the Plat of CAPTAIN'S KEY and the Property.

- (a) No dwelling house having a floor square foot area of less than two thousand

five hundred (2,500) square feet shall be erected, constructed and maintained upon any lot. In computing square foot area, credit shall not be given for screened porches, garages, patios or similar areas. No dwelling house more than two and one-half (2 ½ ) stories in height, not to exceed a total height of forty (40) feet to the highest point, nor any outbuilding or garage in excess of one and one-half (1 ½ ) stories in height, not to exceed a total height of twenty-two (22) feet to the highest point, shall be erected, constructed or maintained on any Lot.

(b) No building, structure, or object, except approved fences, gates, entrances, or landscaping shall be erected, placed or maintained on any lot near or to a front, back, or side lot line, than that allowed by the Palm Beach County Zoning Code.

(c) The front of any lot shall be the side adjacent to a street. The rear shall be the side opposite the front. If a lot has more than one (1) lot line adjacent to a street, the Architectural Committee shall designate which lot line is the front of such lot.

(d) No dwelling house shall be erected without providing an enclosed garage containing at least four hundred (400) square feet. No dwelling house, swimming pool or appurtenant pump house, outdoor fireplace or built-in/fixed grill, or other structure, as more specifically set forth in Paragraph X of this Declaration, shall be erected, constructed or maintained on any lot unless without first obtaining the approval for same from the Architectural Committee.

(e) No garbage or recycling container shall be placed on any lot or easement or right of way for collection, and all empty containers shall be removed from any collection point upon collection so as to ensure that any garbage container is not visible from the street for more than twenty-four (24) hours in total per collection period. All garbage containers shall be maintained, stored, and placed for collection in a neat and orderly fashion so as to not create unnecessary nuisance, disturbance or unsightliness. All garbage placed in garbage containers shall be sealed in standard trash bags made of material or sufficient strength to contain garbage placed therein without ripping or tearing.

(f) All lots shall be fully landscaped contemporaneously with the completion of construction of the dwelling house in accordance with a landscape plan approved by the Architectural Committee. The landscape plan shall further provide for complete sodding of each lot to the property lines unless otherwise provided pursuant to an approved landscape plan. The Architectural Committee may, in its discretion, require that a minimum amount be expended for the landscaping referred to herein. All landscaping shall be undertaken with the goal of sensitivity to the right of neighbors in both their views of the surroundings and the obscuring of undesirable features, and in all cases to be commensurate with the current appearance of the community as a whole.

(g) All driveways shall be completed prior to occupancy and all driveway surfacing material shall be approved by the Architectural Committee. Additionally, each lot owner shall construct a concrete sidewalk on the road right-of-way along the entire front property line and contiguous to said property line to the extent that same is a continuation of the existing sidewalk structure.

(h) Lot owners shall, during the construction of improvements on their Lot, be fully responsible to repair any damage to the street, valley gutters, entry gate, landscaping or other improvements on the Property which are damaged during the course of construction on that owner's Lot. For purposes of ensuring adequate funds for the undertaking of any such repairs, prior to the commencement of construction of any improvement on a Lot, the owner of that Lot, shall, at the time of submittal of any plans to the Architectural Committee, provide a cash or fidelity bond to the Association in the sum of Five Thousand and 00/100 Dollars (\$5,000.00)(the "Bond"). The Bond shall be held by the Association as security for the Lot's owner's repair obligations under this sub-section. Should the Lot owner fail or refuse to undertake the prompt repair of any damage caused during the construction of improvements on that Lot, the Association, upon five (5) days prior written notice, shall be entitled to utilize the Bond funds to undertake such repairs. Should the Bond be inadequate to complete the repairs the Lot the Owner shall remain responsible for any and all repair costs in excess of the

Bond, which excess amounts shall be and constitute a special assessment as to the subject Lot, enforcement of which shall be by way of lien and foreclosure in the manner of a first mortgage on the Lot.

(i) All public utility wires, lines, cables and pipes, including, without limitation, telephone, electrical and cable television wires shall be installed underground from the dwelling or outbuilding to the street or utility easement. No lot shall have its own independent sewer and water system except for an underground sprinkler system and/or approved septic system.

(j) All lots shall have sprinkler systems which shall be completely underground, and shall be so designed as to irrigate an entire lot from the edge of roadway pavement to the rear property line or to water's edge in the case of a waterfront lot. Additionally, any sprinkler system which uses well water as its source shall contain an inlet consisting of only underground pipes, or such pipes shall be screened from the view of the front or rear of the Lot, or in such manner as approved by the Architectural Committee.

(k) No air conditioning, heating or other appliances of any kind shall be constructed or placed upon any roof or window of any building or any part thereof, except solar heating units approved as to type and location by the Architectural Committee.

(l) Unless otherwise approved by the Architectural Committee, construction of approved improvements shall commence within one hundred and twenty (120) days from the date of approval by the Architectural Committee and construction shall proceed continuously and diligently and be completed within a reasonable time, and in no event shall construction of a dwelling house or other improvements be extended or last for more than eighteen (18) months unless otherwise approved by the Architectural Committee.

(m) No temporary building, tent, structure or improvement shall be constructed, erected or maintained without the prior approval of the Architectural Committee.

(n) No garage, trailer or partially completed building shall be used for human



occupancy.

(o) No horses, hogs, cattle, cows, goats, sheep, poultry or other animals shall be kept, raised or maintained on any lot, provided, however, that dogs, cats and other household pets may be kept in reasonable numbers if their presence causes no disturbance to others. All pets shall be kept on a leash when not on the owner's lot and no pet shall be allowed to roam unattended. There shall be no commercial breeding of any animal on any lot.

(p) No tractor, trailer, mobile home, motor home, recreational vehicle, truck having a curb weight (as listed by it's manufacturer) in excess of 7000 pounds, motorcycle or boat shall be kept, parked or stored on any road, right of way or easement or on any lot except within an enclosed garage. No vehicle of any kind shall be parked overnight on any road right-of-way. No maintenance of vehicles or boats shall take place except within closed garages. Provided, however, that nothing contained in this paragraph shall preclude service and delivery vehicles from using the streets and servicing the homes. If upon receipt of that notification from the Association as required by Section 715.07, Florida Statutes, as amended from time to time (the vehicle towing Statute in Florida), an offending vehicle owner does not remove a prohibited vehicle from CAPTAIN'S KEY, the Association shall have the option and right to have the vehicle towed away at the vehicle owner's expense. By this provision, each lot owner and vehicle owner provides the Association with the necessary consent to effect the tow. In the event that the vehicle owner refuses to pay any such costs which the Association may incur, upon demand, the Association shall have the right to levy a Special Assessment therefor against the lot and lot owner in question, that is, the lot owner for himself/herself as the owner of the vehicle or for his/her family, lessees, guests, employees, visitors, etc. and owner(s) of the vehicle (as such, the Lot Owner is liable for the vehicle violations of his/her family, lessees, guests, employees, visitors, etc.); thereupon said Assessment shall be collectible like any other Assessment provided for in this Declaration and the By-Laws of the Association. Whether or not the Association exercises its right to have

the vehicle so towed, the Association shall nonetheless have the right to seek compliance with this Paragraph IV, Section (p) by injunctive and other relief through the Courts; and/or any other remedy conferred upon the Association by law or the Declaration, Articles of Incorporation or By-Laws. The Association's right to tow shall in no way be a condition precedent to any other remedies available to the Association incident to the enforcement of this Paragraph and Section.

(q) Without the approval of the Architectural Committee, no dwelling house, garage, outbuilding or other structure or improvement and no tree, bush, shrub or landscaping of any kind shall be built or maintained upon any easement. Said easements shall at all times be open and accessible to the persons entitled to the use thereof. If approval of the Architectural Committee is granted for such construction or placement, the construction and placement will be at the lot owner's risk and subject to the rights of third parties in and to such easement; however, the lot owner shall and does hereby agree to fully indemnify and hold the Association harmless from any and all claims arising from such placement of improvements or landscaping on any easement, which indemnification shall specifically include reasonable attorneys fees and costs incurred by the Association in defense of any claim.

(r) All lots shall be kept in a clean and sanitary manner and no rubbish, refuse or garbage allowed to accumulate or any fire hazard allowed to exist. No rubbish, refuse or garbage shall be placed on adjoining lots. Weeds and grass growth shall be kept to a maximum height of six inches (6") above the ground on all lots and all trees and shrubs shall be appropriately trimmed. No noxious vegetation, including, but not limited to, Brazilian peppers, Australian pines or melaleucas shall be planted on any lots. Debris from construction or other activities shall be contained at all times. No dumpsters shall be placed on the roadway, sidewalk or other areas outside the boundaries of the Lot. Notwithstanding the foregoing, dumpsters may be placed outside the boundaries of a Lot provided that the Lot Owner placing the dumpster shall be first required to post an additional bond, in the same

amount and under the same terms as set forth in Paragraph IV(h), above, and that the lot owner shall and does hereby agree to fully indemnify and hold the Association harmless from any and all claims arising the placement of such dumpster, specifically include reasonable attorneys fees and costs incurred by the Association in defense of any claim.

(s) No nuisance shall be allowed upon any lot or any use or practice that is a source of annoyance to other lot owners or interferes with the peaceful possession and proper use of the lot by the residents thereof.

(t) No aerials, antennas, or satellite dishes shall be placed directly upon any lot or fixed to any structure other than in a manner consistent with law and so as to minimize the visual impact of same. Any such structure not subject to Federal or State Law, shall be subject to Committee approval to the extent that same shall be visible from the roadway.

(u) No lot shall be re-subdivided except by approval of the Association. The owner of more than one contiguous lot may apply to the Architectural Committee for permission to use such lots as a site of single family dwelling, and upon the written consent of the Committee, said contiguous lots shall thereafter be treated as a single dwelling lot; provided, however, that for purposes of voting in the Association, or assessments, said lots shall be treated as distinct and separate lots. In addition, the Committee may require the lot owner to execute and record a unity of title declaration in form acceptable to the Association's counsel. In no case shall any lot be permitted to contain less than 21,780 square feet of area.

(v) All exteriors of buildings, outbuildings or fences and all exterior surfaces of any type, quality or nature, including screens, shall be painted or otherwise covered in uniform colors approved by the Architectural Committee. No raw aluminum screens or enclosure structures shall be allowed. All colors of exterior surfaces shall be subject to approval of the Architectural Committee and shall be maintained so that the appearance of such colors and exterior surfaces shall remain substantially as approved by said Architectural Committee.

(w) Except to bring building pads to the minimum required elevations, no changes

increasing the height of the elevation of any lot shall be made upon the premises, nor shall any fill be used to extend the property beyond the lot line without the prior written consent of the Architectural Committee.

(x) Whenever the Association is permitted or required by the covenants to enter any lot for the purpose of correction, repair, cleaning, clearing, mowing, or any other required or permitted activity, such entrance shall not be deemed as trespass.

(y) No signs of any nature, including "For Sale", "Open House" or similar signs or announcements may be posted, erected or placed on any Lot unless previously approved by the Architectural Committee or such sign is kept in accordance with sign standards and guidelines established by the Architectural Committee from time to time.

(z) No fence or wall or hedge may be built or planted without the approval of the Architectural Committee or exceed a height of fifteen feet (15') for a hedge or eight feet (8') for a wall along the side and rear lot lines, provided; however, that such hedge or wall does not interfere with the ability of traffic to safely navigate the roadways within the Association or limit visibility of pedestrians so as to expose same to potential danger from traffic. It is further understood that these provisions of this sub-section "z" may be in conflict with existing or future governmental ordinances and to that extent the requirements of such governmental ordinances shall control.

(aa) No driveway, road or other improvement to provide ingress, egress or access will be constructed on or across any area designated on the Plat of CAPTAIN'S KEY as "no access easement" or "no access buffer".

(bb) All mailboxes will be of a type and design established by the Architectural Committee.

(cc) No dock, wharf, or similar structure shall be constructed on any lot or adjacent submerged lands unless approved by the Architectural Committee and all necessary consents, permits and approvals are first obtained from any other governmental agency whose consent

is required for the construction or installation of the proposed improvement(s), including, without limitation, Palm Beach County, the U.S. Army Corp of Engineers, Florida Department of Environmental Protection and the Florida Department of Environmental Resources Management.

(dd) No business shall be operated from any lot which operations create or constitute a nuisance or which lead to on-street parking, as otherwise prohibited by the provisions of this Declaration. No commercial signs or signage advertising services shall be permitted on any Lot.

#### **PARAGRAPH V**

##### **PROPERTY OWNERS ASSOCIATION**

There shall be created and established a non-profit Florida corporation known as CAPTAIN'S KEY PROPERTY OWNERS ASSOCIATION, INC., hereinafter referred to as the "Association". A copy of the Articles of Incorporation and the By-Laws of the Association are attached hereto as Exhibits "B" and "C" respectively and made a part hereof.

#### **PARAGRAPH VI**

##### **PURPOSES AND MEMBERSHIP OF THE ASSOCIATION**

The purposes of the Association shall be all of the purposes set forth in the Articles of Incorporation of the Association. Also, the Association shall be responsible for maintaining all common areas dedicated to or owned by the Association serving all owners of property in the CAPTAIN'S KEY Development. The Association shall provide an entity for the execution, performance, administration and enforcement of all terms and conditions, servitudes and easements affecting all such property and drainage facilities and waterways. Each owner of a lot shall, by virtue of such ownership, be a member of the Association and by acceptance of a deed or instrument of conveyance, or the acquisition of title in any manner, accepts such membership and acknowledges the authority of the Association to act as provided herein.

**PARAGRAPH VII**

**FEE, DUES, CHARGE AND ASSESSMENTS - ASSOCIATION**

Each Owner of any lot in the property described in Paragraph I hereof, by acceptance of a deed or instrument of conveyance or the acquisition of title in any manner, shall hereafter be deemed to have covenanted and agreed to pay to the Association fees, dues, charges and assessments which shall be established in accordance with the By-Laws of said Association.

**PARAGRAPH VIII**

**ENFORCEMENT OF ALL ASSESSMENTS  
AND CREATION OF LIENS**

The collection of all assessments and creation of liens shall be in accordance with the following provisions:

1. If fees, dues, charges or assessments of any kind charged by the Association are not paid upon the date when due, such sums shall be and become delinquent and shall, together with interest thereon, attorneys' fees and all costs of collection, be and become continuing lien and charge on the lot or lots owned by the member of the Association. Such liens shall bind all such property in the hands of the Lot Owner, the Lot Owner's heirs, devisees, personal representatives, successors and/or assigns.
2. If the sums due are not paid within ten (10) days of the date due they shall be deemed passed due and delinquent. Sums more than (30) days past due shall bear interest from the date of first delinquency at the highest rate of interest which may be lawfully charged to individuals, together with a late fee equal to five percent (5%) of the then delinquent installment. At any time that an assessment or charge is delinquent, the Association shall have the right to file a Claim of Lien in the Public Records of Palm Beach County, Florida, which Lien shall secure all charges and assessments due and owing as of the date of rendition of Judgment. The Association may bring an action to foreclose the lien against the property in like manner as the foreclosure of a mortgage on real

property, and there shall be added to the amount due in addition to the interest and late fee hereinabove set forth, all costs of collection and/or appeal and all attorney's fees incurred by the Association in connection with the collection and/or appeal, which attorneys fees and collection costs shall constitute additional sums which shall be secured by the Association's lien and subject to foreclosure as a mortgage on real property. The Claim of Lien and Judgment shall include all of said sums.

**PARAGRAPH IX**

**SUBORDINATION OF LIENS TO MORTGAGES**

The liens for all fees, dues, charges and assessments provided herein, shall be subordinate to the lien of any bona-fide first mortgage, excluding purchase money mortgages, now or hereafter placed on any lot; provided, however, that such subordination shall apply only to the sums which have become due and payable prior to a sale or transfer of such lot, pursuant to a decree of foreclosure or other proceeding in lieu of a foreclosure. No sale, transfer, or conveyance of any kind shall relieve any lot owner from the liability for any fees, dues, charges or assessments thereafter becoming due or the lien for any such sums.

**PARAGRAPH X**

**CONSTRUCTION, ALTERATIONS AND IMPROVEMENTS:**

**ARCHITECTURAL CONTROL COMMITTEE**

1. No building, outbuilding, guest house, cabana, garage, fence, wall, retaining wall, swimming pool, tennis court, or other structure of any kind, or addition to any existing structure, shall be erected, constructed, placed or maintained on said real property, or any part thereof, nor shall any alteration, addition, changing, remodeling or adding to the exterior thereof be made, unless prior to the commencement of any construction, excavation, or other work, and prior to any application for a building permit, three (3) complete sets of plans and specifications therefor, including front, side, and rear elevation and floor plans for each floor and basement, and three (3) plot plans indicating and fixing the exact location of such structure or such altered structure on the lot with reference to the

street side, and rear lines thereof, and three (3) landscaping plans indicating placement and type of all landscaping material to be placed on the lot or building site and the amount of expenditures for landscaping, and also indicating exterior colors to be used on all exterior surfaces of buildings, outbuildings and fences, shall have been first submitted in writing for approval, and approved in writing by an Architectural Committee. The Architectural Committee, consisting of two (2) or more persons, shall be appointed by the Board of Directors at their discretion, one (1) such member being a licensed architect or engineer. The Board may designate such architect or engineer at its discretion. In the event of the failure, refusal or inability to act of any member appointed by the Board of Directors and in the event the Board of Directors fails to fill any such vacancy within thirty (30) days of such occurrence, the remaining member(s) of the Architectural Committee shall select and fill any such vacancy by appointment. The Architectural Committee shall approve only those plans and specifications which shall meet the minimum standards required by the building code of Palm Beach County, Florida, and as revised and amended from time to time and which otherwise comply with all ordinances of Palm Beach County, Florida and all regulations of governmental bodies having jurisdiction over building in CAPTAIN'S KEY.

2. Such plans and specifications shall provide for adequate approaches or turnouts which shall meet the standards required by Palm Beach County, Florida, and as revised or amended by said County from time to time. Such installations of approaches and turnouts shall be completed prior to occupation of the dwelling by its occupants.

3. Approval of plans, specifications and locations by the Architectural Committee shall be endorsed on three (3) sets of said plans and specifications, and two (2) sets shall forthwith be returned by the Architectural Committee to the person submitting the same.

4. The approval of the Architectural Committee of plans and specifications submitted for approval, as herein specified, shall not be deemed to be a waiver by the Architectural Committee of the right to object to any of the features or elements embodied in such plans or specifications, if and when the same features and elements are embodied in any subsequent plans and specifications



submitted for approval for use on other lots.

5. After such plans and specifications and other data submitted have been approved by the Architectural Committee, no building, outbuilding, garage, fence, wall, retaining wall, or other structure of any kind shall be erected, constructed, placed, altered or maintained upon said property unless the same shall be erected, constructed, or altered in conformity with the plans and specifications, and plot plans heretofore approved by the Architectural Committee or its duly appointed agent. If any building, outbuilding, garage, fence, wall, retaining wall or other structure of any kind shall be erected, constructed, placed, altered or maintained upon said property other than in accordance with the plans and specifications and plot plans therefore approved by the Architectural Committee, such erection, construction, placing, alteration and maintenance shall be deemed to have been undertaken without the approval of the Architectural Committee ever having been obtained as required by this Declaration.

6. (a) After the expiration of one year from the date of completion of any structure or alteration, such structure or alteration shall be deemed to comply with all of the provisions of this Paragraph X, unless notice to the contrary shall have been delivered to the lot owner. The Association reserves the right, upon giving such notice, to commence legal proceedings to enforce such compliance.

(b) In the event that the Architectural Committee shall fail, for a period of thirty (30) days, to approve or disapprove any plans, specifications, or plot plans submitted to it for approval, the same shall be deemed to have been approved.

7. Any agent or member of the Architectural Committee may, upon reasonable notice, at any reasonable time, enter and inspect any building or property subject to jurisdiction of the Architectural Committee under construction prior to occupancy or on or in which the agent or member may believe that a violation of the covenants, restrictions, reservations, servitudes, or easements is occurring or has occurred.

8. Prior to the occupancy of any dwelling constructed or erected on any such lot, the prospective occupants thereof shall have complied with all standards and requirements of the Architectural Committee imposed on such occupants.

The Architectural Committee shall collect a submittal fee, other than for repairs of existing improvements, of \$50.00 for minor (i.e. driveways and landscaping) matters and a fee of \$300.00 for all other matters. Lot Owners are encouraged to submit preliminary plans to the Architectural Committee for review so as to avoid needless plan revisions and delays. In all cases the submitting Lot Owner shall be responsible for the actual costs associated with the Architectural Committee's engaging of outside consultants, including, but not limited to, architects and engineers, as are necessary for the review of plans submitted. Such fees shall be in addition to submittal fee collected by the Architectural Committee as provided herein above.

#### PARAGRAPH XI

#### STREETS, EASEMENTS, RESERVATIONS, RIGHTS-OF-WAY AND ADDITIONAL RESTRICTIONS

1. No title to any land in any street is intended to be conveyed, or shall be conveyed to the Grantee under a deed or to the purchaser under any contract.
2. No dwelling house, garage, outbuilding, fence, or other structure of any kind shall be built, erected, or maintained upon any easements, reservations, rights-of-way, and easements, reservations or rights-of-way shall, at all time, be open and accessible to public and quasi-public utilities, and all of them shall have the right of ingress and egress thereto, and rights-of-way are reserved, or may hereafter be reserved.

#### PARAGRAPH XII

#### SCOPE AND DURATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

All of the covenants, conditions and restrictions set forth in this Declaration are imposed upon

the property for the direct benefit thereof and the owners thereof as part of the general plan of development, improvement, building and maintenance of said property. Each grantee or purchaser under a contract of sale or agreement of purchase, by accepting a deed or contract of sale or agreement of purchase, accepts the same subject to a provision of this Declaration and agrees to be bound by each such covenant, condition and restriction contained herein. Said covenants, conditions and restrictions shall run with the land and continue to be in full force and effect in perpetuity.

### **PARAGRAPH XIII**

#### **AMENDMENTS**

The terms and conditions of this Declaration may be amended, annulled, or waived by an instrument in writing recorded in the Public Records of Palm Beach County, Florida, in the following manner and subject to the following conditions:

(a) Such amendment, annulment or waiver shall have been approved at duly called and held meetings by not less than a majority of the Board of Directors and sixty-six percent (66%) of the votes entitled to be cast by those members of the Association or, in the alternative, by the unanimous approval of the initial Board of Directors of the Association.

(b) The Articles of Incorporation and By-Laws of the Association may be amended in the manner so provided in such documents.

(c) Notwithstanding the foregoing, no amendment shall be made to the parts of Paragraph IX relating to lending institutions, without the written consent of all such parties holding mortgages on such lots.

### **PARAGRAPH XIV**

#### **ENFORCEMENT OF DECLARATION**

The enforcement of this Declaration may be by proceeding at law for damages or in equity to compel compliance with its terms or to prevent violation or breach of any of the covenants or terms

herein. The Association, or any individual may, but shall not be required to, seek enforcement of the Declaration. Any individual who seeks enforcement of the Declaration shall by his actions be deemed to have indemnified the Association from all liabilities resulting from his actions. Should the party seeking enforcement be the prevailing party in any action, then the person against whom enforcement has been sought shall pay all costs and reasonable attorneys' fees at all trial and appellate levels to the prevailing party.

The provisions contained in this Declaration shall bind and inure to the benefit of and be enforceable by the Architectural Committee, the Association, or by the owner or owners of any portion of said property, their and each of their legal representatives, heirs, successors and assigns; failure by the Architectural Committee, the Association, or by the owner or owners of any portion of said property or their legal representatives, heirs, successors or assigns, to enforce any of such covenants, restrictions, reservations, servitudes and easements herein contained shall, in no event, be deemed a waiver of the right to do so thereafter, unless otherwise provided herein.

#### **PARAGRAPH XV**

#### **TRANSFER OF LOTS**

(a) Approval. Except as is otherwise provided for in this Paragraph XV, lots may be leased and sold without approval by the Association. The provisions of this Paragraph XV shall be fully complied with.

(b) Notice. Every Owner shall provide notice to the Association of the following transfers.

(1) Transfers of a lot or any interest therein by sale;

(2) Transfers of a lot or any interest therein by lease, sublease or assignment (other than mortgage); and

(3) Acquisition of title to a lot by gift, devise or inheritance.

(c) Remedy. In the event that any Owner fails to notify the Association of any

transfer referred to in Section (b) above, then the Association shall provide written notice by registered mail or certified mail, return receipt requested, to the Owner concerned, requiring proper notification. If after thirty (30) days after the mailing of said notice, the Owner has failed to provide proper notice, the transfer shall be void; the Association shall thereupon be entitled to file proceedings in Court to seek cancellation of the transfer and removal of the occupants in the lot.

(d) Form Notice and Application. The Board of Directors of the Association is empowered to adopt a form to be used in connection with and as proper notification hereunder and shall be entitled to require as part of proper notification, a copy of the following (whichever is applicable):

- (1) Lease, sublease or assignment;
- (2) Deed or other instrument of conveyance; and
- (3) Instrument conveying title by gift, devise or inheritance.

#### PARAGRAPH XVI

#### MARGINAL NOTES AND HEADINGS OF PARAGRAPHS

The marginal notes and headings as to the contents of particular paragraphs are inserted only as a matter of convenience and for reference, and in no way are, or are they intended to be, a part of this Declaration, or in any way define, limit or describe the scope and intent of that particular section or paragraph to which they refer.

#### PARAGRAPH XVII

#### THE VARIOUS PARTS OF THIS DECLARATION ARE SEVERABLE

In the event of any clause, subdivision, term, provision or part of the Declaration being adjudicated by final judgment of any court of competent jurisdiction to be invalid or unenforceable, then disregarding the paragraph, subdivision, term or provision or part of this Declaration as adjudicated to be invalid or unenforceable, the remainder of this Declaration, and each and all of its

terms and provisions not so adjudicated or invalid or unenforceable shall remain in full force and effect, and each and all of the paragraphs, subdivisions, terms, provisions or clauses of this Declaration are hereby declared to be severable and independent of each other.

**PARAGRAPH XVIII**

**GOVERNING LAW**

The operations of the Association shall be subject to the laws of the State of Florida and Florida Statutes Section 720, et seq., as amended from time to time.

**PARAGRAPH XIX**

**OWNERS' SPECIAL RIGHTS OF THE ASSOCIATION - MAINTENANCE**

Each Owner shall keep their Lot, and all improvement thereon, in good order and repair and free of debris including, but not limited to, seeding, watering, mowing of lawns, the pruning and cutting of all trees and shrubbery, and painting (or other appropriate external care) of all buildings and other improvements, all in a manner and with such frequency as is consistent with good property management. In the event that an Owner shall fail to maintain such lot and improvements situated thereon, as provided herein and elsewhere in this Declaration, the Association, upon approval by two-thirds (2/3) vote of the full Board of Directors and after reasonable notice to the particular Owner, shall have the right, but not the obligation, to enter upon said lot to repair, maintain and restore the lot and the exterior of the buildings and any other improvements thereon, and such entry shall be deemed with the consent of the Owner and shall not constitute a trespass. All costs related to such correction, repair or restoration shall become a special assessment upon said lot, and collectible as any other special assessment provided for in this Declaration and the By-Laws of the Association.

IN WITNESS WHEREOF, CAPTAIN'S KEY PROPERTY OWNERS ASSOCIATION, INC., by and through its below signed duly elected officers, has executed this Amended and Restated Declaration of Covenants under seal this 15<sup>th</sup> day of April, 2008.

Signed, sealed and delivered  
in the presence of:

[Signature]  
Brenda B. Armstrong

STATE OF FLORIDA )  
COUNTY OF PALM BEACH ) :ss

"ASSOCIATION"  
Captain's Key Property Owner's Association,  
Inc., a Florida not for profit corporation

By Joseph DiMare  
President

(CORPORATE SEAL)



I HEREBY CERTIFY, that on this day personally appeared before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, Joseph DiMare, as President of CAPTAIN'S KEY PROPERTY OWNER'S ASSOCIATION, INC., a Florida not for profit corporation, to me known to be the individual and officer of said corporation described in and who executed the foregoing instrument; and he acknowledged the execution thereof to be his free act and deed as such officer thereunto duly authorized, that the official seal of said corporation is duly affixed thereto, and that the said instrument is the act and deed of said corporation.

WITNESS my hand and official seal in the State and County last aforesaid this 28<sup>th</sup> day of August, 2008.



Brenda B. Armstrong  
Commission #DD392164  
Expires: FEB. 02, 2009  
WWW.AARONNOTARY.com

Brenda B. Armstrong  
Notary Public

My Commission Expires:

## EXHIBIT A

### Legal Description

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31 and 32; Captains Key according to the plat thereof on file in the Clerk of the Circuit Court, in and for Palm Beach County, Florida, in plat book 28, page 167 and 168.

This is not a certified copy



**AMENDED AND RESTATED BYLAWS  
OF  
CAPTAIN'S KEY PROPERTY OWNERS ASSOCIATION, INC.**

**ARTICLE I  
DEFINITIONS**

"Association" means CAPTAIN'S KEY PROPERTY OWNERS ASSOCIATION, INC., a non-profit corporation organized and existing under the laws of the State of Florida.

"Protective Covenants" means such documents as may from time to time contain the covenants, restrictions, liens and charges established for the benefit of the Association, its Members, and the property and the residents of the community located thereon.

"CAPTAIN'S KEY Property" means any property subject to the Indenture or the covenants, liens or charges imposed thereby.

For purposes of these Bylaws, the definitions as contained in Paragraph III of the Amended and Restated Protective Covenants of Captain's Key Property Owners Association, Inc. (the "Protective Covenants") are hereby incorporated in their entirety as if fully set forth herein.

**ARTICLE II  
LOCATION**

The principal office of the Association shall be located in Palm Beach County, Florida at such address as is supplied by the Association to the Florida Department of State.

**ARTICLE III  
MEMBERSHIP**

(1) Eligibility. The members of the Association are determined by Article V of the Articles of Incorporation of the Association. The rights of Members are subject to:

(a) The current payment in full of all fees, dues, charges and Annual and Special Assessments, imposed by the Declaration of Protective Covenants, the Articles of Incorporation or these By-Laws; and

(b) Compliance with the terms of the Declaration of Protective Covenants, Articles of Incorporation, these By-Laws, and the Rules and Regulations of the Board of Directors, as in existence from time to time, regarding the use of CAPTAIN'S KEY Property, and the conduct of members, their families, their tenants and lessees, and the guests of any thereof.

The voting and other membership rights of any members may be suspended by action of the Board

payment of any fees, dues, charges and assessments; if suspended, the rights and privileges of membership of the member shall be automatically restored upon payment of same."

2. Rights and Prerequisite of Membership; Delegation of Rights. Each member is entitled to the use and enjoyment of CAPTAIN'S KEY Property and community facilities in accordance with the Declaration of Protective Covenants, the Articles of Incorporation, these By-Laws and the Rules and Regulations of the Association, as same shall be amended from time to time; Such rights may be delegated to and exercised by all members of the family who reside upon the Property, and any of his tenants and lessees who reside thereunder and the guests of any thereof. The rights and privileges of such persons are subject to suspension by the Board of Directors if the member is suspended as provided for in Article III (1) of these By-Laws.

#### ARTICLE IV MEETINGS OF MEMBERS

1. Annual Meetings. The Annual Meeting of the Members shall be held at the office of the Association specified in Article II above or at any other address specified in the Notice of that Meeting, on the last Tuesday in the month of March in each year, at the hour of 6:00 P.M.

2. Special Meetings. Special Meetings of the Members for any purpose may be called at any time by the President, the Executive Vice President, or by any three (3) or more Directors. The Secretary shall call a special meeting upon written request of the Members who have a right to vote one-fourth (1/4th) of all of the votes of the entire Membership.

3. Notices. Notice of meetings shall be given to the Members by the Secretary. Notice may be given to the Member either personally, or by mailing a copy of the notice, postage prepaid, to the address appearing on the books of the Corporation. (Each Member shall register his address and any change in address with the Secretary.) Notice of any meeting, regular or special, shall be mailed no less than ten (10) nor more than fifty (50) days in advance of the meeting and shall set forth the purposes of the meeting.

4. Quorum. At any membership meeting, the presence, whether in person or by proxy, of members entitled to vote not less than a majority of the total qualified membership vote, shall constitute a quorum for the transaction of business. The acts approved by a majority of the vote present at a meeting at which a quorum is established shall constitute the acts of the members, except where a greater vote is required by the Protective Covenants, Articles of Incorporation or these By-Laws.

5. Voting; Proxies. Votes of members may be cast in person or by proxy. All proxies shall be in writing, signed and dated and must be filed with the Secretary of the Association no later than the commencement of the meeting for which the proxy shall be used.

6. Action by Members Without a Meeting (Written Consent)

(a) Any action required to be taken at any annual or special meeting of the Members,

6. Action by Members Without a Meeting (Written Consent)

(a) Any action required to be taken at any annual or special meeting of the Members, or any action which may be taken at any annual or special meeting of the Members, may be taken without a meeting, without prior notice, and without a vote if a consent in writing, setting forth the action so taken, shall be signed by the number of Members that would be necessary to authorize or take such action at a meeting of the members at which all Members were present.

(b) In connection with this section, the Association shall forward to each Member specific notice of the particular action which is desired to be taken, along with a consent form approving such action. Upon receipt of written consents from the requisite number of all Members, such action shall be deemed approved by the Members.

(c) Within ten (10) days after obtaining such authorization by written consent, the Association shall send notice to all Members, including those who have not consented or responded to the notice, summarizing the actions approved by written consent."

**ARTICLE V**  
**BOARD OF DIRECTORS**

1. Membership and Powers. The Association shall be governed by a Board of Directors in accordance with Article VI of the Articles of Incorporation of the Association, which shall consist of an odd number of directors not less than five nor more than seven in number. Without limiting the generality of the preceding sentence, or any power vested in it by law, the Board of Directors shall have the power:

- (a) to appoint and remove at its pleasure all officers, agents and employees of the Association, prescribe their duties, fix their compensation and require of them security or fidelity bonds as it may deem expedient (nothing contained in these By-Laws shall be construed to prohibit the employment of any Member, Officer or Director of the Association in any capacity whatsoever);
- (b) to establish, levy, assess and collect the Annual and Special Assessments, and all other fees, dues, charges and assessments authorized by the Declaration of Protective Covenants, Articles of Incorporation and these By-Laws;
- (c) to adopt and publish Rules and Regulations governing the use of CAPTAIN'S KEY Property and the personal conduct of Members, their family, their tenants, and their guests with respect thereto;
- (d) to exercise for the Association all powers, duties and authority vested in or delegated to this Association, except those expressly reserved to the Members; and

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- (e) in the event any Member of the Board of Directors of the Association shall be absent from three (3) consecutive regular meetings of the Board of Directors, the Board take action at the meeting in which such third absence occurs to declare the office of said absent Director to be vacant.
- (f) to grant easements in favor of third parties, without joinder of any member of the Association, provided that requirements of any governmental entities or special taxing districts are specified in the easement as a condition to the viability and continuation of any such easement."
- (g) to take any and all actions allowed by law necessary to protect the interests of the Association and the mutual interests of the Members, including, without limitation, the filing and/or foreclosure of liens for assessments, as in the manner of a first mortgage on any Lot subject to a lien, the prosecuting or defending lawsuits in the name of the Association on behalf of the Membership.

2. Duties. It shall be the duty of the Board of Directors:

- (a) to cause to be kept a full, true and accurate record of its acts and corporate affairs and to present a statement thereof to the Members at the Annual Meeting of the Members or at any Special Meeting when requested in writing by one-fourth (1/4th) of the full Membership;
- (b) to supervise all Officers, agents and employees of this Association, and to see that their duties are properly performed;
- (c) in accordance with the Protective Covenants,
  - (i) to fix the amount of the assessments, both regular and special, against each lot or living unit as soon as may be practicable after the beginning of each calendar year;
  - (ii) to prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Member; and
  - (iii) to send written notice of each assessment to every Owner subject thereto.
- (d) to issue or to cause an appropriate Officer to issue, upon demand by any person, a certificate stating whether any assessment has been paid, which shall be conclusive evidence that any charge stated therein has or has not

been paid.

3. Vacancies. Vacancies in the Board of Directors shall be filled by the affirmative vote of a majority of the remaining Directors though less than a quorum of the Board of Directors and any such appointed Director shall hold office for the unexpired term of his predecessor in office.

## **ARTICLE VI**

### **DIRECTORS' MEETINGS**

1. Annual Meetings. The Annual Meeting of the Board of Directors shall be held immediately following adjournment of the Annual Meeting of the Members in each year.

2. Regular Meetings. Regular meetings of the Board of Directors shall be held at the office of the Association provided that the Board of Directors may, by resolution, change the day and hour or the place of holding such regular meeting.

3. Notices; Waiver. Notice of any Special Meeting shall be sufficient if mailed to each Director, postage prepaid, at his address as it appears on the records of the Association, at least three (3) days before the meeting or given personally or by telephone not later than the day before the meeting. No notice need be given to any Director who attends the meeting, or to any Director who in writing (before or after the meeting) waives such notice.

4. Special Meetings. Special Meetings of the Board of Directors shall be called by the Secretary upon request by any Officer of the Association or by any two (2) Directors. The action of a majority of the Board, although not at a regularly called meeting, shall be valid and effective in all respects if the record of the meeting shall be assented to in writing by all Members of the Board.

5. Quorum. At all meetings of the Board, a majority of the Board of Directors shall constitute a quorum, and, except as otherwise provided by law or by the By-Laws, the act of a majority of the Directors present shall be the act of the Board.

(6) Action by Directors Without a Meeting. Any action required to be taken at a meeting of the Board of Directors, or any action which may be taken at a meeting of the Directors or a committee thereof, may be taken without a meeting if a consent in writing setting forth the action so to be taken signed by all of the Directors or all Members of the committee, as the case may be, is filed in the Minutes of the proceedings.

## **ARTICLE VII**

### **ELECTION OF DIRECTORS**

1. Ballots. The election of Directors shall be by written ballot as hereinafter provided. at each Annual Meeting or at any Special Meeting called for the purpose of electing Directors, the Members or their proxies may cast, in respect of each vacancy, as many votes as they are entitled to

cast under the Articles of Incorporation of the Association. The nominees receiving the largest number of votes shall be elected.

2. Nominations; Nominating Committee. Nominations for election to the Board of Directors shall be made by the Nominating Committee, which shall consist of a Director, who shall be the Chairman, and one or more Members of the Association, or an Officer or a Corporate Member. The Nominating Committee shall be appointed by the Board of Directors prior to each Annual Meeting of the Members to serve during such Annual Meeting and until the next Annual Meeting or until its successor shall have been duly designated and qualified. The Members of the Nominating Committee shall be announced at each Annual Meeting of the Members. Only Members who are current with all financial obligations to the Association shall be qualified to hold office. Additionally, Members who are, at the time of the election, either selling their Lot or listing same for sale shall not be qualified to hold a seat on the Board of Directors.

3. Nominees. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies to be filled. Such nominations may be made from among Members of nonmembers, as the Committee in its discretion shall determine. Nominations shall be placed on a written ballot as provided in Section 4 and shall be made in advance of the time fixed in Section 4 for the mailing of such ballots to the Members.

4. Procedure. All elections of the Board of Directors shall be made on written ballots which shall:

- (a) describe the vacancies to be filled;
- (b) set forth the names of those nominated by the Nominating Committee for such vacancies; and
- (c) contain a space for a write-in vote by the Members for each vacancy.

Such ballot shall be prepared and mailed by the Secretary to the Members at least fourteen (14) days in advance of the date set forth therein for a return (which shall be a date not later than the day before the Annual Meeting or any Special Meeting called for the purpose of electing Directors).

5. Voting. Each Member shall be mailed a ballot on which he may cast the number of votes to which he is entitled. The completed ballot shall be returned in the manner hereinafter outlined. The ballot shall bear on its face the name and signature of the Member, the number of votes being cast and such other information as the Board of Directors may determine will serve to establish his right to cast the vote or votes stated therein. The ballot shall be returned to the Secretary at such an address as may be clearly designated by the Secretary.

6. Processing. Upon the receipt of each return, the Secretary shall immediately place

it in a safe place. Not more than twenty-one (21) days prior to the day set for the meeting at which the elections are to be held, the envelopes shall be turned over, unopened, to an Election Committee which shall consist of three (3) persons appointed by the Board of Directors. All returns thereafter received by the Secretary on or before the date set for a return shall accordingly be turned over to the Election Committee. The Election Committee shall adopt a procedure which shall:

(a) establish that the Member is entitled to cast either personally or by proxy, the number of votes indicated on the ballot; and

(b) that the signature of the Member on the ballot is genuine; and

if the vote is by proxy, that the proxy has been filed with the Secretary as provided in Article IV, Section 4 and that each proxy is valid.

After the procedure has been completed relative to a ballot, the count of the vote shall be taken. All ballots and proxies as well as any continuing tally of the votes shall be kept by the Election Committee, when not being processed, in a safe place. The ballots shall be retained for ninety (90) days after the meeting and then destroyed.

## **ARTICLE VIII** **OFFICERS**

1. **Offices.** The Officers of the Association shall be a President, Executive Vice President, one or more Vice Presidents, Secretary, one or more Assistant Secretaries and a Treasurer. The President and one of the Vice Presidents shall be members of the Board of Directors.

2. **Election by Board of Directors.** All Officers shall be elected at such Annual Meeting of the Board and each Officer shall hold office until the next Annual Meeting of the Board and until his successor shall have been duly elected and qualified or until his earlier death, resignation, or removal in accordance with the By-Laws. The Officers shall be chosen by a majority vote of the Directors.

3. **President; Duties.** The President shall be the Chief Executive Officer of the Association and as such shall have general supervision of the affairs and property of the Association and over its several Officers, subject to the direction of the Board of Directors. The President shall, if present, preside over all meetings of the Board of Directors, and shall generally do and perform all acts incident to the office of President. He may sign in the name and on behalf of the Association all notes, leases, mortgages, deeds and all other written instruments authorized by the Board, except where the Board shall delegate the execution thereof to some other Officer or agent of the Association.

4. **Executive Vice President; Duties.** The Executive Vice President shall perform all of the duties of the President in the event of his absence or disability; and when so acting shall have all

of the powers and be subject to all restrictions placed upon the President.

5. Secretary; Duties. The Secretary shall act as Secretary of the Board of Directors and shall record the votes and keep the minutes of all proceedings in a book to be kept for that purpose. He shall sign all certificates of membership. He shall keep the records of the Association. He shall record the names and addresses of all Members of the Association, shall see that all notices are duly given as required by the By-Laws or applicable law, and shall be the custodian of the corporate seal.

6. Treasurer; Duties. The Treasurer shall receive and deposit in bank accounts approved by the Board all monies of the Association and shall disburse such funds as directed by a resolution of the Board of Directors; provided, however, that a resolution of the Board of Directors shall not be necessary for the disbursements made in the ordinary course of business conducted within the limits of a budget adopted by the Board. The Treasurer shall sign all checks and notes of the Association.

7. Books and Accounting. The Treasurer shall keep proper books of account and cause an annual audit of the Association's books to be made by a certified public accountant at the completion of each fiscal year. He shall prepare an annual budget and an annual balance sheet statement and the budget and balance sheet statement shall be presented to the Membership at its Annual Meeting.

#### **ARTICLE IX** **BOOKS AND PAPERS**

The books, records, and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member.

#### **ARTICLE X** **CORPORATE SEAL**

The Association shall have a seal in circular form having within its circumference the words: CAPTAIN'S KEY PROPERTY OWNERS ASSOCIATION, INC., a Florida non-profit Corporation incorporated 1978.

#### **ARTICLE XI** **AMENDMENTS**

1. Amendment Procedure. These By-Laws may be amended, at a regular or special meeting of the Members, by a vote of the majority of a quorum of the Members present in person or by proxy, provided that those provisions of these By-Laws which are covered by the Articles of Incorporation of this Association may not be amended except as provided in the Articles of Incorporation or applicable law; and provided, further, that any matter stated herein to be or which is in fact covered by the Protective Covenants may not be amended except as provided therein.



2. Resolution of Conflicts. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Protective Covenants and these By-Laws, the Protective Covenants shall control.

## **ARTICLE XII**

### **FISCAL MANAGEMENT**

Board Adoption of Annual Budget; Annual Assessment. The Board shall adopt an Annual Budget and fix and determine Annual Assessments against the Owners for common expenses of the Association in advance of each budget and fiscal year, at a special meeting of the Board called for that purpose. The Annual Budget shall include the estimated funds to operate the Association and maintain the Property for which it is obligated to maintain, repair and replace. The Annual Budget may also include operating reserves and reserves for deferred maintenance and capital expenditures. The Board shall adopt such Annual Budget in the time frame required by the Declaration. Each lot and unit shall be assessed at an equal rate.

2. Failure of Board of Directors to Adopt Budget. If the Annual Budget and Assessment is not made as required, an Annual Assessment shall be presumed to have been made in the amount of the last prior Annual Assessment, which shall be due and payable on January 1 until changed by an amended Annual Assessment as provided for herein below.

3. Annual Budget Amendment. In the event that the Annual Budget and Assessment proves insufficient, the Annual Budget and Assessment may be amended at any time by the Board of Directors. The unpaid assessments for the remaining portion of the year for which the Amended Annual Assessment is made shall be due as provided for in written notification from the Board of Directors.

4. Special Assessments. In addition to the Annual Budget and Assessment, the Board of Directors is empowered to levy special assessment(s) for any proper common expense. Special assessments shall be due and payable at the time and in the manner that the Board may require, but in no event earlier than ten (10) days from the date that the Board of Directors mails notification of the special assessment as provided for herein below.

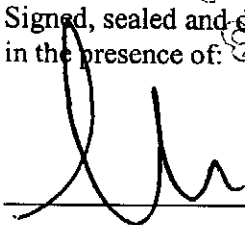
(a) Proviso. Notwithstanding the foregoing provisions to the contrary, the Board of Directors at its option may require that particular special assessment(s) must be ratified by a specified percentage vote of the Members of the Association. The fact that the Board of Directors elects to require ratification from the Membership as to a particular special assessment shall in no way establish a precedent or require that the Board of Directors likewise seek ratification from the Membership as to any subsequent or future special assessment(s).

5. Notice of Assessments. The Board of Directors shall mail to all Owners, one (1) notice of the Annual Budget and Assessment, whether or not the Annual Budget and Assessment is payable in more than one (1) installment, prior to January 1 of the particular year. In the event that

the Annual Budget and Assessment is amended, the Board of Directors shall mail to all Owners notice of the Annual Budget Amendment and Assessment. The Board of Directors shall also mail to all Owners, notification of the levy of any special assessment. Failure of any Owner to receive his or her notification will not relieve said Owner from the obligation for payment thereof. It is the obligation of each Owner to see to it that the assessment is paid to and received by the Association, or any agent designated by the Association as its agent for collection thereof. Furthermore, in said regard, each Owner is obligated to notify the Association of a current and proper mailing address, as same may change from time to time, so that the Association may discharge its obligation hereunder in providing notice of assessments to the Owners.

IN WITNESS WHEREOF, CAPTAIN'S KEY PROPERTY OWNERS ASSOCIATION, INC., by and through its below signed duly elected officers, has adopted, by a vote of the majority of the Board of Directors, joined by a majority of the members this 15<sup>th</sup> day of April, 2008.

Signed, sealed and delivered  
in the presence of:

  
\_\_\_\_\_

"ASSOCIATION"  
Captain's Key Property Owner's Association,  
Inc., a Florida not for profit corporation

By Joseph D. Mar  
President

Brenda Sprunt  
\_\_\_\_\_

Attestation

By Dwight Wilson  
As Secretary, Captain's Key Property  
Owner's Association, Inc.

(CORPORATE SEAL)

