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DECLARATIONS OF COVENANTS AND RESTRICTIONS  
INDIGO UNIT 8 PUD.  
VOLUSIA COUNTY, FLORIDA  
AND  
NOTICE OF PROVISIONS OF  
- INDIGO UNIT #8 OWNER'S ASSOCIATION, INC.

THIS DECLARATION is made this 2nd day of December, 1987, The Charles Wayne Group Ltd., a Florida Limited Partnership, with its principal mailing address as 149 South Ridgewood Avenue, Daytona Beach, Volusia County, Florida, 32014 (hereinafter referred to as the "Developer").

W I T N E S S E T H:

WHEREAS, the Developer is the record owner in fee simple absolute of certain real property located in Volusia County, Florida, more particularly described in the legal description attached hereto as Exhibit "A" and incorporated herein, and

WHEREAS, in accordance with the applicable provisions of state law and local ordinances, the Developer has caused the real property described in Exhibit "A" to be subdivided into a platted subdivision know as "INDIGO UNIT 8 PUD," duly filed in the Office of Clerk of the Circuit Court, Volusia County, Florida, on FEB 6, 1989, and recorded in Map Book 112, pages 127 through 129 of the Public Records of Volusia County, Florida.

WHEREAS, it is the intention of the Developer to develop the Indigo Unit 8 PUD as a residential subdivision, and

WHEREAS, there is a need to specify and impose covenants, and to grant necessary easements for the proper use of the subdivision, and to provide for the effective administration of the common areas inside the subdivision, and

WHEREAS, the Developer has caused to be incorporated in Florida a non-profit corporation known as Indigo Unit #8 Owner's Association, Inc., which has been formed to manage the common areas, collect assessments, and generally provide for the orderly enjoyment of Indigo Unit 8 PUD.

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NOW, THEREFORE, this Declaration is made, filed and recorded by the Developer so that from the effective date hereof, the real property described in Exhibit "A" is and shall be held, transferred, sold, conveyed, given, donated, leased, occupied, and used subject to the restrictions, conditions, easements, affirmative obligations, and liens (all hereinafter sometimes referred to as the "covenants") hereinafter set forth. This Declaration shall become effective on the date it is recorded in the Public Records of Volusia County, Florida.

ARTICLE I

DEFINITIONS AND DESCRIPTION OF PROPERTY

Section 1.1 Definitions - The following words and terms when used in this Declaration and any supplemental declaration shall have the following meanings, unless the context shall clearly indicate otherwise:

- a. "Association" shall mean the Indigo Unit #8 Owner's Association, Inc., a Florida corporation not for profit, and its successors and assigns, the membership of which will be owners of all "dwelling units" or "lots", in the Indigo Unit 8 PUD.
- b. "Developer" shall mean and refer to The Charles Wayne Group Ltd., a Florida Limited Partnership, its successors and assigns.
- c. "Common Areas" shall mean those tracts of land shown on the plat, <sup>→ of #8 & Indigo Unit 8 PUD and Indigo Unit 5 PUD</sup> together with any improvements thereon which are conveyed to the Association and designated on the plats or deeded as "common areas". The term "common areas" shall also include any personal property, additional real property, road rights - of - way, easements or other projects acquired, owned or leased by the Association if any such property is designated as such by the Association or is designated as Association property on the plat of the first or any subsequent phase of the subdivision. All common areas are to be devoted to and intended for the common use and enjoyment of the members of the Association, their families, guests, persons occupying dwelling units on a guest or tenant basis, and visiting members of the general public (but only to the extent designated on the plats or authorized by the Board of Directors of the Association) subject to the fee schedules and operating rules adopted by the Association.
- d. "Residential Lot" or "Lot" shall mean any subdivided parcel of land located within the lands described in Exhibit A that has been set forth as a lot and has been given a lot number upon the latest applicable recorded plat of the subdivision.
- e. "Dwelling Unit" shall mean an improved parcel of ground as indicated on a recorded plat.

f. "Subdivision" shall mean the Indigo Unit 8 PUD as recorded in the Public Records of Volusia County, Florida.

g. "Declaration" or "Covenants" means this Declaration of Covenants and Restrictions, as from time amended in the manner provided herein.

h. "Association Documents" means the Declaration, the Articles of Incorporation of the Association, the Bylaws.

ARTICLE II

RESTRICTIVE COVENANTS AND EASEMENTS

Section 2.1. No lot shall be used for any purpose except residential. The term "residential" is intended to prohibit any commercial use, even professional office use of any portion of any dwelling. No building shall be erected, altered, placed or permitted to remain on any lot except those approved by the Developer.

Section 2.2. No building or structure shall be erected on, placed upon, altered, or permitted to remain on any lot unless and until the owner submits the floor plan, elevation and abbreviated specifications (including exterior material and colors) and such plans have been reviewed and approved by the Developer, as hereinafter provided. The Developer shall review the proposed building or structure (including plans and specifications for same) as to the quality of workmanship and materials, the harmony of the external design and location of the building or structure with existing buildings or structures, the location of the building or structure with respect to topography, vegetation and the finished grade of elevation of the lot, and any other relevant considerations which are based on acceptable standards of planning, zoning, and construction, including considerations based exclusively on aesthetic factors.

Section 2.3. When the Developer deems the circumstances appropriate, it shall cause control of a architectural review to be turned over to the Board of Directors of the Indigo Unit #8 Owner's Association, Inc. The Association shall then appoint an Architectural Review Committee which shall assume the duties and perform the functions as set forth in this Declaration. After control of the Association (as hereinafter defined) is turned over to the unit owners, other than the Developer, any and all appeals from actions taken by the Architectural Review Committee shall be heard and decided by the Board of Directors of the Association.

Section 2.4. No structure of a temporary or permanent nature or character, and whether or not attached to the land including, but not limited to, ~~new trailer, house trailer, mobile home, camper, tent, dog or pet house, shack, shed, barn, or other similar~~

structure or vehicle, shall be used or permitted to remain on any lot as a storage facility or Dwelling Unit, or other living quarters whether temporary or permanent, unless approved by the Developer or Architectural Review Committee for use during construction only.

Section 2.5. All motor vehicles shall carry a current year's license tag registration and be maintained in proper operating condition, so that they do not constitute a nuisance because of noise, unsightly appearance, exhaust emissions, or otherwise. All motor vehicles, including but not limited to automobiles, golf carts, trucks, trail bikes, motorcycles, dune buggies, etc., shall be driven only upon the paved streets and parking areas. No motor vehicles shall be driven upon the pathways, or unpaved areas of the lands.

~~Section 2.6.~~ No boat, boat and trailer, or trailer alone shall be parked (for any period of time in excess of five (5) hours in any 24 hour period) or stored or otherwise permitted to remain on any lot, except in an approved boathouse or garage attached to the Dwelling Unit. No automobile, truck, or other commercial vehicle which contains lettering or advertising thereon or which is identified with a business or commercial activity, shall be parked (for any period of time in excess of five (5) hours in any 24 hour period) or stored or otherwise permitted to remain on any lot except in a garage attached to the Dwelling Unit. No parking of any vehicle shall be permitted on the streets or rights-of-way in the subdivision for any period of time in excess of five (5) hours in any 24 hour period.

Section 2.7. No livestock, poultry, or animals of any kind or size shall be raised, bred, or kept on any lot; provided, however, that dogs, cats, fish, or small birds, or other domesticated household pets may be raised and kept, provided that such pets are not kept, bred or maintained for any commercial purposes. Except as specifically enumerated above, the Board of Directors shall have the right to determine whether an animal is a domesticated household pet and the board's determination shall be final. Such approved pets shall be kept on the owner's lot and shall not be permitted to roam free in the neighborhood and in no event shall an owner or occupant of



a Dwelling Unit have more than a total of two dogs or cats or combination thereof.

~~Section 2.8.~~ No sign of any kind shall be erected, permitted to remain on or displayed to public view on or from any lot, except an approved sign giving the name of the occupant of the Dwelling Unit located on said lot or an approved sign advertising the premises for sale or rent. All signs shall be approved by the Association.

Section 2.9. An owner, his family, invitees, and lessees shall not do or keep, and shall not cause anything to be done or kept on his lot which shall constitute a nuisance under the laws of the State of Florida of which will obstruct or interfere with the rights of the other Owners or the Association by unreasonable noise, unpleasant odor, unsightly appearance or otherwise, nor shall any owner, his family, invitees, or lessees commit or permit any nuisance or immoral or illegal act within the lands.

Section 2.10. No lot shall be used or maintained for dumping or discharge of rubbish, trash, garbage, or other solid waste material. All lots shall be kept free of the accumulation of rubbish, trash, garbage, other solid waste materials, and all unsightly weeds and underbrush. No incinerators or other fixed equipment shall be used for the collection, storage or disposal of solid waste material.

Section 2.11. All mailboxes and newspaper receptacles will be built following the designs approved by the Developer or the Association.

Section 2.12. No hedge over six feet in height, nor any wall or fence of any height, shall be erected, placed, altered, maintained, or permitted to remain on any lot unless and until the height, type and location thereof have been approved by the Developer or Architectural Review Committee.

Section 2.13. No septic tank, drain field, mobile home storage tank, or other similar container shall be permitted to exist on any lot.

Section 2.14. No driveway shall be constructed, maintained, altered or permitted to exist on any lot if the driveway obstructs or

impedes the flow of surface drainage in the area adjacent to the lot or in the street right-of-way or swale area adjoining or abutting the lot. All driveways must be approved by the Developer or Architectural Review Board.

Section 2.15. The owner shall assume and pay as and when the same shall become due the costs of the installation and maintenance of the underground utility system from primary utility lines.

Section 2.16. ~~No one shall be permitted to~~ install or maintain any outside television or radio antenna, masts, aerials or other tower for the purpose of audio or visual reception or transmission of coherent light or laser signals.

Section 2.17.. As stated on the plat for this Unit, there have been established easements for the installation, construction, maintenance and repair of the common areas, streets, drainage, utility services and transmission or distribution of communication and other like services within and outside of this Subdivision. These easements shall be established by one or more of the following methods, to wit:

- a. By a specific designation of an easement on the recorded plat of this Unit or any other Unit;
- b. By a reservation or specific statement providing for an easement in the deed of conveyance of a given lot in the Unit; or
- c. By a separate instrument to be subsequently recorded by the Developer or the Association.

Section 2.18. In conjunction with the foregoing provisions, the Developer hereby reserves for itself and for the Association the right to grant permits, licenses and easements over, in and through existing easements and all common areas for additional utility facilities, roads, recreational areas, bike or jogging paths and other rights of way or facilities as either the Developer or the Association deems appropriate.

Section 2.19. The owner of each zero lot line single family detached Dwelling Unit within the Subdivision shall have, and is hereby granted, an easement on the zero setback side of his Dwelling



Unit for the construction, maintenance, repair and replacement of eaves, roof overhangs, fireplaces, bay windows and other encroaching improvements as may from time to time be approved by the Architectural Review Committee of the Association or the Board of Directors of the Association. No such easement shall encroach upon the Dwelling Unit of the adjoining owner.

Section 2.20. Each unit owner shall have and is hereby granted an easement on the adjoining property to the extent that an owner's Dwelling Unit is constructed or encroaches upon the adjoining property. If the encroaching Dwelling Unit is replaced or the encroaching wall removed, then the replacement structure or wall shall be designed and built so as to not encroach on the adjoining property.

Section 2.21. The Association shall have and is hereby granted an easement of access to all portions of each lot outside of the Dwelling Unit constructed thereon for the purpose of maintaining the landscaping and grounds on individual lots and common areas adjoining said lots and of maintaining, painting and repairing the exterior of the Dwelling Units and other improvements on said lots. Nothing in this grant of easement shall require the Association to maintain, paint or repair any private property within the Subdivision.

Section 2.22. The Developer hereby reserves, for itself, and hereby grants to other builders constructing Dwelling Units within the Subdivision, easements of access and storage to the full extent required to permit the Developer or other builders to construct improvements on the adjoining property whether such property is a common area or is privately owned and occupied. As a condition to use of said easements, the Developer and any other builder enjoying the easements shall be obligated to restore, within thirty days of issuance of a certificate of occupancy for the property being built or renovated, any sod, landscaping, improvements or other property of adjoining owner that was damaged during construction.

Section 2.23. Except as specifically permitted herein, the leasing of a Dwelling Unit is prohibited. Under no circumstance shall a lease for less than six months be permitted and all shorter leases are hereby disapproved. No lease shall be made to more than one

person and his/her immediate family. All leases must be approved, in advance, by the Board. An owner intending to lease his Dwelling Unit shall give the Board notice of such intention, together with the address of the proposed lessee, and such other information concerning the proposed lessee as the Board may reasonably require, and a copy of the proposed lease. Within twenty-five (25) days after receipt of such notice and information, the Board must either approve or disapprove the proposed lease. If approved, the approval shall be stated in a certificate executed by the president or a vice-president of the Association and delivered to the owner. If disapproved, the Owner shall be advised of the disapproval in writing and the lease shall not be made. Except for leases that violate the requirements of this Declaration or the Rules and Regulations, the failure of the Board to approve or disapprove a proposed lease within twenty-five (25) days shall constitute approval of the proposed lease. All lessees, their families and guests shall comply with the provisions of these Covenants, the Articles and By-Laws of the Association and the Rules and Regulations.

Section 2.24. No permanently installed flagpoles shall be permitted on any lot. Removeable flagpoles for temporary and infrequent use may be permitted on a lot, but only with the prior written approval of the Board of Directors as to size, design, and location. No statuary lawn ornaments shall be permitted on any lot.

Section 2.25. An owner, his family, invitees, and lessees shall comply with all policies and procedures established, from time to time, by the Board of Directors with respect to security or security guard services within the Subdivision which services may include the installation and operation of limited access security gates at the entrances to the Subdivision or to the overall subdivision being developed by Developer as Indigo Lakes.

Section 2.26. No outdoor clothes drying apparatus or equipment, and no screening shall be constructed, erected, or permitted on any lot unless the design, installation, and location thereof has been approved in writing by the Developer.

Section 2.27. No provision contained in the covenants shall be interpreted or construed to prevent the Developer, its transferees, or its or their contractors or subcontractors, from doing or performing on all or any part of the Lands actually owned by the Developer or its transferees as the case may be, whatever they determine to be reasonably necessary or advisable in connection with the completion of the development of the Lands and the sale of the Lots, including, without limitation, the following:

- a. Erecting, constructing, and maintaining such structures and vehicles as may reasonably be necessary for the conduct of Developer's business of completing and establishing the Lands as a residential community, and disposing of the same in parcels by sale, lease, or otherwise. ..
- b. Conducting on the Lands its or their business of completing and establishing the Lands as a residential community and disposing of the Lands in parcels by sale, lease, or otherwise.
- c. Maintaining such sign or signs on the Lands as may be reasonably necessary in connection with the sale, lease, or other transfer of the Lands in parcels.
- d. Maintaining model Dwelling Units and sales centers within the subdivision.

ARTICLE III

ASSOCIATION

Section 3.1. To effectively provide for the administration of the common areas by the owners of lots or dwelling units in Indigo Unit 8 PUD, Indigo Unit #8 Owner's Association, Inc., a Florida not-for-profit corporation (the "Association") has been created. The Association shall operate and manage the common areas, assist in the enforcement of the restrictions and covenants contained herein, and undertake and perform all acts and duties necessary and incident to such duties, all in accordance with the provisions of this Declaration and the Articles of Incorporation and By-laws of said Association. True and complete copies of the Articles of Incorporation and By-laws of the Association are attached hereto as Exhibits "B" and "C", respectively, and such documents are made a part hereof.

Section 3.2. The owner of each dwelling unit in the subdivision shall automatically become a member of the Association upon his, her or their acquisition of an ownership interest in title to the dwelling unit as provided in the Articles of Incorporation. The membership of such owner shall terminate automatically at the time that such owner is divested of such ownership interest or title to such lot or dwelling unit, regardless of the means by which such ownership may have been divested.

Section 3.3. No person, corporation, or other business entity holding any lien, mortgage or other encumbrance upon any lot or dwelling unit shall be entitled, by virtue of such lien, mortgage, or other encumbrance, to membership in the Association or to any of the rights and privileges, or be charged with any of the duties of such membership; provided, however, that nothing contained herein shall be construed as prohibiting membership in the Association of a person, corporation, or other business entity which acquires title to a lot or dwelling unit either by foreclosure or by voluntary conveyance from a mortgagor, his successor or assign.

Section 3.4. In the administration, operation and management of the common areas and the enforcement of these covenants

and restrictions, the Association shall have and is hereby granted full power and authority to enforce all the provisions of this Declaration, to levy and collect assessments in accordance herewith, and to adopt, promulgate, and enforce such rules and regulations governing the use and enjoyment of the common areas and the administration of the aforesaid covenants and restrictions as the Board of Directors of the Association may from time to time deem appropriate and in the best interests of the Association. No such rule may restrict the right of an owner to convey or mortgage a lot or dwelling unit in the subdivision and any such restrictions shall be made only by amending this Declaration in the manner provided herein.

Section 3.5. The Association shall have the full power but not the obligation to maintain all lawns within the Subdivision, including mowing, trimming, fertilizing, and applying insecticide and herbicide; caring for and providing plants and landscaping; providing painting, exterior wall cleaning and maintenance, roof repair and maintenance and to provide other Dwelling Unit exterior maintenance and repair services; provided that the reasonable value of such services shall be payable by the lot owner who receives the benefit of said services. The amount levied by the Association for such services shall be an assessment and shall become a lien on the lot benefitted. Such amount may be levied as part of regular periodic assessments or as a special assessment as the Board of Directors of the Association or its duly authorized committee may determine.

Section 3.6. No building or subsequent addition or modification thereof, including modifications of the exterior of a dwelling unit, including but not limited to siding material, color, trim, windows or roofs, or construction of any type, and further including, the construction or modification of any fence, wall, screen enclosure, patio, deck, shed, dwelling unit, pool, spa, bath, pet house, driveway, walkway, or material modification to a landscaping scheme or other improvement or structure located upon the lot, shall be placed upon a lot without the prior approval of Developer of the construction plans and specifications, and of the plot (or location) plan. Developer shall have thirty days after receipt of

the plans, specifications and plot plan to approve or reject the same, in whole or in part. Evidence of the approval shall be in writing, executed by Developer, but need not be recorded in the public records. Unless the plans, specifications, and plot plan are affirmatively approved within the thirty day period, the same shall be considered rejected. If Developer does not give its approval, Developer may prohibit the construction of any building or modification thereof on a lot by civil action seeking an injunction or restraining order, and the person making the improvements hereby consents to the entry of the injunction or restraining order. Developer may charge a reasonable fee for its review of construction plans, specifications, and plot plans. No act or omission on the part of Developer shall impose any liability upon Developer, nor shall Developer be deemed to have assumed any liability with regard to any undertaking because of its action and enforcement of, or failure to act or enforce, minimum standards for such improvements. The Lot Owner shall be solely responsible for the quality and safety of any improvement constructed by, or for, the lot owner and approval of the aesthetics herein shall not be in any way a review or approval of the structural adequacy or safety of the proposed improvement. Upon transfer of control to the lot owners, other than the Developer, this provision shall be enforced by the Association.

Section 3.7. The Association shall have the right to adopt reasonable rules and regulations for the conduct of people within the Subdivision so long as their rules and regulations do not conflict with these Covenants, the Articles or the By-Laws of the Association.

Section 3.8. a. The Developer reserves the right to establish a master association for Indigo Lakes Subdivision ("Indigo") which is the overall subdivision being developed by the Developer. The Master Association may include Indigo Units 4 - 10, plus Indigo Village, and will generally encompass the lands described in the plan for "Indigo Units 3 - 10 Master Drainage Network" as further defined below, except for Indigo Unit 3. Provided the decision is made by the Developer to include Indigo Units 1, 2 and 3 and the owners of dwelling units therein or their associations provide the appropriate



approval, the Master Association may also include said Indigo Units 1, 2 and 3. This Association will become a member of the Master Association upon formation of such Master Association. By becoming a member of the Master Association this Association agrees to delegate such responsibilities as the Master Association may assume as provided in the articles of incorporation and by-laws of said Master Association. The Association shall have the power to levy assessments to pay the Association's reasonably proportionate dues, fees and assessments in the Master Association and said assessments shall be treated as any other periodic assessment.

b. Among the responsibilities of the Master Association will be to coordinate and to manage a master stormwater management system relating to Indigo, as generally set forth in the plan for "Indigo Units 3 - 10 Master Drainage Network", prepared by Zev Cohen & Associates, Inc., and bearing file number 83-113 sheet 6 of 7, as from time to time amended with the approval of the City of Daytona Beach, Florida, and the St. John's River Water Management District. The Master Association shall have the power to assess dues and fees against this Association for this Association's reasonably proportionate share of the expense of maintenance of said master stormwater drainage system and for such other duties as the Master Association may reasonably carry out.

ARTICLE IV

COVENANTS FOR ASSESSMENTS

Section 4.1 Creation of Lien and Personal Obligation. The Developer covenants, and each owner of each and every lot and dwelling unit shall by acceptance of a deed or other instrument of conveyance therefor, whether or not it shall be so expressed in any such deed or instrument, be deemed to covenant and agree to all the terms, covenants, conditions, restrictions, and other provisions of this declaration and to promptly pay to the Association or its successors or assigns the following:

- a. All periodic assessments or charges; and,
- b. All special assessments or charges for the purposes set forth in Section 4.2.

Such assessments or charges shall be fixed, established, levied, and collected from time to time as hereinafter provided. The periodic and special assessments (together with such interest thereon and the cost of collection including reasonable attorneys' fees as hereinafter provided) shall be a charge and continuing lien on the real property and improvements thereon against which such assessment is made. Each such assessment (together with such interest thereon and the cost of collection including reasonable attorneys' fees) shall also be the personal obligation of the person who was the "owner" of such real property at the time when the assessment first became due and payable. In the case of joint ownership of a residential lot or dwelling unit, each owner shall be individually, jointly and severally liable for the entire amount of the assessment and the aforesaid interest, collection costs, and attorneys' fees.

Section 4.2. Purpose of Assessments. The assessments levied by the Association shall be used for the improvement, maintenance, enhancement, enlargement, and operation of the Common Areas and for the maintenance, repair, replacement and enhancement of the individually owned lots, grounds and improvements, and to provide services which the Association is authorized to provide including, but not limited to, the payment of taxes, governmental assessments and insurance thereon, construction of improvements, repairs,

replacements, and to acquire additions to the Common Areas, payment of the costs of labor, services, equipment, materials, management, and other supervision necessary to carry out the authorized functions of the Association, and for the payment of principal, interest and other charges connected with loans made to or assumed by the Association for the purpose of enabling the Association to perform its authorized functions, including the payment of mortgages covering the Common Area and Property at the time of conveyance to the Association as a pre-condition to use of such facilities. Notwithstanding any of the provisions of this Article, in no event shall the assessments and other revenues collected by the Association exceed its expenses and reasonable reserves to an extent which would violate the Association's non-profit status.

Section 4.3. The initial regular monthly assessment is hereby set at the rate of \$65 per lot or dwelling unit. Lots or dwelling units owned by Developer shall not be subject to assessments, either regular or special. Assessments begin on individual lot owners upon closing of conveyance of title or after issuance of a certificate of occupancy to the Dwelling Unit constructed on each lot. If no certificate of occupancy is issued, then upon equivalent approval by the appropriate governmental authority of the Dwelling Unit as being substantially completed such assessments will begin. Developer guarantees the initial assessment shall not exceed \$75 per month per lot or dwelling unit until the owners, excluding the Developer, have a majority of the votes in the Association or January 1, 1990, whichever occurs first. After turnover of control has occurred, regular monthly assessments will be determined at the annual meeting of the directors of the Association. The regular assessment may be increased beyond that set at the annual meeting upon approval by 60 percent of the voting members in attendance in person or by proxy at any regular or special meeting of the Association, but only after notice of the recommendation is given to all members at least ten (10) days prior to the date of said meeting; provided, however, that nothing herein shall

be construed to preclude the Board of Directors of the Association from fixing and levying an emergency assessment not to exceed one month's regular assessment, which emergency assessment may be levied without notice to the membership and without the holding of any special or regular meeting of said membership of the Association.

Section 4.4. Nothing herein shall prohibit the owner of a dwelling unit from leasing such dwelling unit and requiring the tenant of such dwelling unit to reimburse the owner for the monthly assessment against said dwelling unit, subject to the provisions contained in this Declaration or in the Rules and Regulations concerning leasing. In that event, however, the lessor must deliver his proxy to the tenant for one vote and permit the tenant to exercise the vote as he sees fit. Such proxy shall be in full force and effect so long as tenant has legal possession of the dwelling unit. On the first day of each month the owner of any dwelling unit which has been leased shall certify to the secretary of the Association the names of all tenants who are residents of such dwelling unit as of that date. So long as the tenant has legal possession, the owner's right to enjoy recreational areas of Indigo Unit 8 PUD Subdivision shall abate in favor of the tenant.

Section 4.5. At least 30 days before the beginning of a new fiscal year, the Board of Directors of the Association shall adopt a budget for that new fiscal year. The Board of Directors will have the power to adopt the budget without the approval of the owners of lots and dwelling units, unless the proposed assessments on each lot owner exceed the current year's assessments by more than fifteen percent (15%). If the proposed budget exceeds the current year's assessments by more than fifteen percent (15%), then a majority of the owners of lots or dwelling units, other than the developer, shall have the right to approve the proposed budget before it takes effect.

Section 4.6. Each budget prepared by the Association shall contain provisions for reserves for the periodic maintenance, repair and replacement of improvements to the common areas. Such reserves need not include an inflation factor but should be periodically adjusted to take into account the current cost of repair or

replacement. The items for which reserve accounts are established and the amounts allocated to reserves shall be at the discretion of the Board of Directors.

Section 4.7. In order to provide adequate working capital for the Association, each original purchaser of a dwelling unit shall pay at the time of closing an initial assessment equal to two month's assessments at the then current level, or \$100, whichever is greater. The initial assessment shall constitute a lien on each dwelling unit until paid and may be enforced in the same manner as any other assessment. Each builder who purchases a lot shall include in his contract to sell the completed dwelling unit a provision requiring payment of said initial assessment at closing on the dwelling unit.

Section 4.8. Assessments which are not paid on or before the date the same shall become due shall be delinquent, and each delinquent assessment shall bear interest at eighteen percent (18%) per annum until it is paid in full. In addition to the accrual of interest, when an assessment becomes delinquent in payment, the Association may file a claim of lien to perfect the lien for such assessment as against third persons, against the dwelling unit and other property of the owner(s) who defaulted in the payment of such assessment. There shall be no exemption from the payment of any assessment or installment thereof by waiver of the use of the common areas, by abandonment of the lot or dwelling unit, by extended absence from the subdivision or by or for any other reason, except as provided in Section 4.3.

Section 4.9. The Association, upon written request of any owner, shall furnish to a prospective purchaser or prospective mortgagee or other authorized person a statement of the current status of the assessments on such owner's lot or dwelling unit. When executed by the Treasurer of the Association, the statement shall be binding on the Association, and any purchaser or mortgagee may rely upon such statement as an accurate statement of the status of assessments.

Section 4.10. All revenue collected by the Association shall be segregated, held and used as the separate property of the

Association, and such revenue may be applied by the Association, at the discretion of the Board of Directors, towards the payment of any expenses of operation and maintenance of the common areas. Revenue collected by the Association from an owner of a lot or dwelling unit may be commingled with monies collected from other owners.

Section 4.11. Although all funds and other assets of the Association, and any profits derived therefrom, shall be held for the benefit of the members of the Association, no member of said Association shall have the right to assign, encumber, hypothecate, pledge, or in any manner transfer his membership or interest in or to said funds and assets, except as an appurtenance to his lot or dwelling unit. When an owner of a lot or dwelling unit shall cease to be a member of the Association by reason of the divestment by him of his ownership of said lot or dwelling unit, by whatever means that occurs, the Association shall not be required to account to said owner for any share of the funds or assets of the Association.

Section 4.12. Recognizing that proper management and operation of the common area and property (including improvements thereto) result in benefit to all members of the Association, the Association is hereby granted a lien upon all real property within Indigo Unit 8 PUD Subdivision and the interests of each member of the Association in the common area and property and improvements thereto, to secure the prompt payment of each and every assessment made and levied in accordance with this Declaration and each owner shall be liable for, and this lien shall secure, the full amount of said assessment, and the costs and expenses, including attorneys' fees, which may be incurred by the Association in enforcing this lien or the provisions of this Declaration.

Section 4.13. The lien herein established may be foreclosed in the same manner as real estate mortgages may be foreclosed in the State of Florida. The lien granted herein shall also secure such payment of or advances for taxes and payments on superior mortgages, liens, or encumbrance which may be required to be advanced by the Association in order to protect its interests, and the Association shall be entitled to interest computed on the basis of advances made



from time to time at the highest legal rate of interest on all such advances.

Section 4.14. All persons, firms, corporations, and other business entities, which shall acquire, by whatever means, any interest in the ownership of any lot or dwelling unit, or who may be given or who may acquire a mortgage, lien or other encumbrance of a lot or dwelling unit are hereby placed on notice of the lien rights granted to the Association under this Declaration, and all such persons, firms, corporations, and other business entities shall acquire their rights, title and interest in and to said lot or dwelling unit expressly subject to the lien rights provided herein.

Section 4.15. The lien created pursuant to this Declaration shall be effective from and after the recording in the Public Records of Volusia County, Florida of a "claim of lien" that sets forth the name of the record owner of the property, the amounts due and the date when the same became due. The lien shall continue in effect until all sums secured by the lien have been fully paid. The claim of lien may include assessments which are due and payable when the claim is made and recorded, plus interest, fines, penalties, collection costs, attorneys' fees, and advances to pay taxes and prior encumbrances and interest thereon, all as provided herein. The claim of lien shall be signed and verified by the President or Vice President of the Association. When full payment of all sums secured by such lien is made, the claim of lien shall be satisfied of record by the President or Vice President of the Association. The claim of lien filed by the Association shall be subordinate to the lien of any mortgage or any claim of lien if the said mortgage or claim of lien is recorded prior to the Association's claim of lien.

ARTICLE V

AMENDMENT AND TERMINATION

Section 5.1. The Developer hereby reserves the right to amend, modify or rescind such parts of these restrictions as it in its sole discretion deems necessary or desirable so long as it is (a) the owner of at least seventy-five percent (75%) of the property to which these restrictions apply, or in the alternative, (b) such amendment or modification does not substantially change the character, nature, or general scheme of development of Indigo Unit 8 PUD Subdivision.

Section 5.2. a. In addition to the manner of amendment set forth in the preceding paragraph, the record owners of eighty percent (80%) of lots or dwelling units in Indigo Unit IV PUD may amend or modify such provisions of this Declaration as they deem necessary or desirable.

b. In such event, the President and Secretary of the Association shall execute a certificate under oath reciting that the amendment was adopted at a meeting duly called and at which a quorum was present in person (or by proxy) and that at least eighty percent (80%) of those entitled to cast a vote approved the amendment. Such certificate, together with the amendment adopted, shall be filed in the Public Records of Volusia County, Florida. It shall not be necessary for the record owners to join in any document to effectuate such amendment.

ARTICLE VI

USE OF COMMON PROPERTY

Section 6.1. The common areas, as hereinabove specifically described, or hereafter designated by Developer, shall be, and the same are hereby declared to be, subject to a perpetual non-exclusive easement appurtenant and license in favor of all of the owners of lots and dwelling units lying within Indigo Unit 8 PUD as hereinabove described, for the use of such owners and the use of their immediate families, guests, lessees, invitees, and others similarly situated, for all proper and normal residential purposes, including ingress and egress, for the furnishing of services and facilities for which the same are reasonably intended, and for the quiet enjoyment of said owners. Said easement is not subject to partition or sale separate from the lot to which it is appurtenant.

Section 6.2. The rights to enjoy and use the common areas shall be subject to:

a. The right of the Association to charge reasonable user, maintenance, or other fees for the use of recreational facilities if any are located upon the Common Area;

b. The right of the Association to suspend the voting rights and the right of use of the Common Area by any Owner for any period during which any assessment against the owner's lot remains unpaid or as a penalty to any person who has violated this Declaration or the Association documents; and for a period not to exceed sixty (60) days for any infraction of Association rules and regulations; and

c. The right of the Association to transfer, dedicate, or encumber all or any part of the Common Area for such purposes and subject to such conditions as may be acceptable to the members. Provided, however, no such dedication, transfer, or encumbrance shall be effective unless approved by at least two-thirds of the members.

Section 6.3. By accepting any instrument of conveyance or by taking possession of occupancy of any dwelling unit or lot in the subdivision, each such person agrees to abide by and comply with all rules and regulations promulgated by the Association now in effect

or which may hereafter be adopted, it being understood that the compliance with such rules and regulations is necessary for the orderly enjoyment of all common areas and recreational facilities if any are existing or which may hereafter be designated by Developer. It is the responsibility of the Indigo Unit #8 Owner's Association to maintain all streets, drainage facilities, common area, common landscaping and common lighting.

ARTICLE VII  
COVENANTS AGAINST PARTITION

AND

SEPARATE TRANSFER OF MEMBERSHIP RIGHTS

Recognizing that the full use and enjoyment of any lot or dwelling unit within Indigo Unit 8 PUD is dependent upon the use and enjoyment of the common areas and the improvements made thereto, and that it is in the interests of all of the owners that the membership in the common areas be retained by the owners of lots and dwelling units, it is therefore declared that the membership rights of any owner in the common area shall remain undivided, and such owners shall have no right at law or equity to seek partition or severance of such membership rights in the common areas. In addition, there shall exist no right to transfer the membership rights in the common areas in any other manner than as an appurtenance to and in the same transaction with, a transfer of title to or lease of the lot or dwelling unit in the subdivision, provided, however, that nothing herein shall preclude a conveyance by the Developer herein of any undivided interest in the common areas to the owners of lots or dwelling units within the subdivision for the purpose of effectuating the intent of this Declaration. Any conveyance or transfer of a lot or dwelling unit in Indigo Unit 8 PUD shall include the membership rights in the common areas appurtenant to such unit whether or not such membership rights shall have been described or referred to in the deed by which said lot or unit is conveyed.

ARTICLE VIII

COVENANTS TO RUN WITH LAND

The restrictions and burdens imposed by the provisions and covenants of this Declaration shall constitute covenants running with the land, and each shall constitute an equitable servitude upon the owner of each lot and dwelling unit and the appurtenant undivided interest in the common areas and upon the heirs, personal representatives, successors, and assigns of each owner, and the same shall likewise be binding upon the Developer and its successors and assigns. This Declaration shall be binding and in full force and effect for a period of 30 years from the date this declaration is recorded, after which time this Declaration shall be automatically extended for successive ten year periods, unless an instrument, signed by seventy-five percent (75%) of the then recorded owners of the lots or dwelling units in Indigo Unit 8.PUD is recorded containing an agreement of the said owners with respect to the alteration, change, modification or repeal, in whole or in part, of the provisions of this Declaration.



ARTICLE IX

LENDER'S NOTICES

Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the address or lot number, any mortgage holder, insurer, or guarantor will be entitled to timely written notice of:

A. Any condemnation or casualty loss that affects either a material portion of the subdivision or the dwelling unit securing its mortgage.

B. Any 60 day delinquency in the payment of assessments or charges owed by the owner of any dwelling unit on which it holds the mortgage.

C. A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.

D. Any proposed action that requires the consent of the mortgage holders.

IN WITNESS WHEREOF, the Developer has hereunto set its hand and seal the day and year first above written.

THE CHARLES WAYNE GROUP INC.  
a Florida Corporation, the  
Managing General Partner of  
The Charles Wayne Group Ltd.

*Mary Miller*  
*Barbara Rinaldi*  
Witnesses

BY: *[Signature]*  
Vice President

ATTEST: *Kathleen D. Blad*

STATE OF FLORIDA  
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 3rd day of Feb., 1997, by Sandra A. Burke and Kathleen D. Blad Vice President and Assistant Secretary of the corporation on behalf of the corporation.

*Beverly L. Kwaik*  
Notary Public, State of Florida  
at Large  
My Commission Expires:

Notary Public, State of Florida  
My Commission Expires June 25, 1992  
Sealed This True Copy of the Original

EXHIBIT "A"  
 INDIGO UNIT 8 PUD

Overall Description

Parcel "G" of Indigo Unit #6, as per map recorded in Map Book 42, Page 7, of the Public Records of Volusia County, Florida, and also a portion of Section 15, Township 15 South, Range 32 East, Volusia County, Florida, all being more particularly described as follows: As a point of reference, commence at a concrete monument marking the Southwest corner of said Section 15, Township 15 South, Range 32 East; thence run S 89° 52' 46" E, along the South line of said Section 15, thence run N 16° 53' 41" W, along the Easterly right-of-way line of said U.S. Highway I-95, a distance of 846.15' to a point therein; thence departing said Easterly right-of-way line of U.S. Highway I-95, run N 63° 41' 09" E, a distance of 417.42' to the POINT OF BEGINNING of this description; thence run N 47° 06' 34" W a distance of 158.94' to a point; thence run N 16° 40' 19" W a distance of 359.98' to a point; thence run N 73° 19' 41" E a distance of 506.19' to a point; thence run S 68° 19' 08" E a distance of 1019.03' to a point; thence run N 61° 47' 51" E a distance of 463.15' to a point; thence run S 81° 33' 15" E a distance of 211.58' to a point; thence run S 08° 26' 45" W a distance of 317.04' to the point of Curvature of a curve to the right, said curve having a radius of 277.75' and a central angle of 26° 03' 03"; thence run Southerly and Westerly, along said curve, a distance of 126.29', having a tangent distance of 64.25', a chord distance of 125.20', and a chord bearing of S 21° 28' 17" W, to the point of Tangency thereof; thence run S 34° 29' 48" W a distance of 18.02' to a point; thence run S 55° 30' 12" E a distance of 190.00' to a point; thence run S 34° 29' 48" W a distance of 120.00' to a point; thence run S 55° 30' 12" E a distance of 92.00' to the Point of curvature of a curve to the left, said curve having a radius of 25.00' and a central angle of 90° 00' 00"; thence run Northerly and Easterly, along said curve, a distance of 39.27', having a tangent distance of 25.00', a chord distance of 35.36', and a chord bearing of N 79° 29' 48" E, to the Point of tangency thereof, said point lying in the Westerly line of Indigo Unit #7, as per map recorded in Map Book 40, Pages 175 and 176, of the Public Records of Volusia County, Florida, said point also being in the Westerly right-of-way line of Indigo Drive, an 80 foot Right-of-Way as shown on said plat; thence run S 34° 29' 48" W, along said Westerly line of Indigo Unit #7, a distance of 100.00' to the Southeasterly corner of Parcel "G", of aforementioned Indigo Unit #6, thence departing said Westerly right-of-way of Indigo Drive, run along the Northeasterly line of said Parcel "G", being a curve concave Southwesterly and having a radius of 25.00', a central angle of 90° 00' 00", a tangent distance of 25.00', a chord distance of 35.36', and a chord bearing of N 10° 30' 12" W, to the Point of Tangency thereof; thence continue along the Northerly line of said Indigo Unit #6, N 55° 30' 12" W, a distance of 250.00' to a concrete monument; thence run S 57° 15' 30" W, along the Westerly line of said Indigo Unit #6, a distance of 246.53' to a concrete monument, said point also lying in a curve concave Southwesterly and having a radius of 829.28'; thence departing the Westerly line of said Indigo Unit #6, run Northerly and Westerly, along said curve, a distance of 207.43', or through a central angle of 14° 19' 54", having a tangent distance of 104.26', a chord distance of 206.89', and a chord bearing of N 31° 49' 27" W to the Point of Compound Curvature of a curve concave Southerly and having a radius of 500.00'; thence run Northerly and Westerly, along said curve, a distance of 499.12', or through a central angle of 57° 11' 43", having a tangent distance of 272.58', a chord distance of 478.65', and a chord bearing of N 67° 35' 13" W to the Point of Tangency thereof; thence run S 83° 48' 55" W a distance of 664.12' to a point; thence run N 80° 24' 34" W a distance of 241.34' to the POINT OF BEGINNING of this description, said parcel containing 21.96 acres, more or less.