

MAD ASSOCIATES LLC  
8501 ATLANTIC AVE  
WILDWOOD, NJ 08260

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This instrument prepared by  
and to be returned to

Scott D Newsom, Esq  
HR Law, P.A  
1560 Orange Avenue, Suite 500  
Winter Park, Florida 32789  
(407) 571-7400

Cross-reference to the Amended  
and Restated Declaration of Covenants and  
Restrictions for Hawks Nest at Aquarina recorded in  
Official Records Book 7102, Page 1374, *et seq* ,  
Public Records of Brevard County, Florida

**CERTIFICATE OF AMENDMENT TO THE AMENDED AND RESTATED  
DECLARATION OF COVENANTS AND RESTRICTIONS FOR  
HAWKS NEST AT AQUARINA**

This **CERTIFICATE OF AMENDMENT TO THE AMENDED AND RESTATED  
DECLARATION OF COVENANTS AND RESTRICTIONS FOR HAWKS NEST AT  
AQUARINA** (this “Amendment”) is made and entered into this 13<sup>th</sup> day of January, 2022,  
by **HAWKS NEST AT AQUARINA HOMEOWNERS ASSOCIATION, INC.**, a Florida not  
for profit corporation (hereinafter, the “Association”).

**WITNESSETH:**

**WHEREAS**, that certain Amended and Restated Declaration of Covenants and  
Restrictions for Hawks Nest at Aquarina was recorded on April 9, 2014 in Official Records Book  
7102, Page 1374, *et seq* , Public Records of Brevard County, Florida, and as subsequently amended  
and/or supplemented from time to time (collectively, the “Declaration”); and

**WHEREAS**, Sections 17.3 through 17.6, inclusive, of the Declaration provide the method  
and procedure as to how the Declaration can be amended; and

**WHEREAS**, Section 17.5 of the Declaration provides in pertinent part that the Declaration  
may be amended by the approval of not less than two-thirds (2/3) of those voting interests of the  
Association that are present, either in person or by proxy, and voting at a duly noticed meeting of  
the Association at which a quorum is present; and

**WHEREAS**, at a duly called and noticed meeting of the Association’s membership, a  
quorum of the Association’s voting interests was present; and

**WHEREAS**, proposed amendments to portions of the Declaration, as such amendments are more particularly described in and/or on the attached **Exhibit "A"**, were submitted to the Association's voting interests for approval and/or adoption at that duly noticed meeting of the Association's membership; and

**WHEREAS**, at that same meeting, voting interests of the Association representing the requisite number as set forth in Section 17.5 of the Declaration approved of and/or affirmatively were in favor of the proposed amendments to the Declaration, as such amendments are more particularly described in the attached **Exhibit "A"**; and

**WHEREAS**, the Declaration was amended and such amendments were duly adopted in accordance with the provisions of the Declaration by the Association and/or the Association's voting membership; and

**NOW, THEREFORE**, pursuant to Article 17 of the Declaration, the Association and/or its voting members hereby amend the Declaration as follows:

1. **Recitals.** The foregoing recitals are true and correct, form a material part of this Amendment, and are incorporated in this Amendment by this reference.
2. **Definitions.** Unless otherwise specifically set forth in this Amendment, any capitalized terms used herein shall have the meanings assigned to them in the Declaration.
3. **Amendment of Declaration.** Pursuant to its authority, power, and rights set forth in the Declaration, including without limitation, Article 17 of the Declaration, the Association and/or its voting members hereby amend the Declaration as set forth more particularly on the attached **Exhibit "A"**, which is incorporated herein in its entirety by this reference.
4. **Full Force and Effect.** Except as hereby amended as set forth on the attached **Exhibit "A"**, the Declaration is hereby ratified, confirmed, and shall remain in full force and effect in strict accordance with its terms, covenants, and/or restrictions. Further, the jurisdiction and authority of the Association is hereby ratified, confirmed, and/or accepted as to the enforcement, terms, conditions, and/or provisions of the Declaration and/or any other governing documents of the Association.
5. **Conflict.** To the extent that the terms, covenants, provisions, conditions, and/or restrictions of the amendment to the Declaration attached as **Exhibit "A"** are in conflict with and/or are inconsistent with the terms of the Declaration, the terms, provisions, covenants, conditions, and/or restrictions of **Exhibit "A"** shall control for all purposes
6. **Construction.** The paragraph headings herein are provided for convenience and ease of reference only and shall not affect the construction and/or interpretation of this Amendment. Unless the context requires a contrary construction, the singular shall

include the plural and the plural shall include the singular, and the masculine, feminine, and neuter genders shall each include the others.

- 7. **Severability.** Invalidation of any of these covenants, provisions, and/or restrictions, or any part, clause, provision, paragraph, and/or word of this Amendment, or the application thereof in specific circumstances, by judgment or court order, shall not affect any other provisions, restrictions, and/or applications in other circumstances, all of which shall remain in full force and effect.
- 8. **Effective Date.** This Amendment shall become effective upon being recorded in the Public Records of Brevard County, Florida.

WITNESS our signatures hereto this 13<sup>th</sup> day of January, 2022.

WITNESSES:

**HAWKS NEST AT AQUARINA HOMEOWNERS ASSOCIATION, INC.,** a Florida not for profit corporation

*Frances Potzschardt*

Print Name: FRANCES POTZSCHARDT By: *Michael DiAntonio*

*EM Mahan*

Print Name: Michael DiAntonio

Print Name: Elizabeth Mahan

Title President

STATE OF New Jersey  
COUNTY OF Cape May

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this 13<sup>th</sup> day of January, 2022, by Michael DiAntonio (print name) as the President of **HAWKS NEST AT AQUARINA HOMEOWNERS ASSOCIATION, INC.**, on behalf of the corporation. He/She is  personally known to me, or  as produced \_\_\_\_\_ as identification.

NOTARY SEAL:



*EM Mahan*  
Notary Public, State of New Jersey  
Print Name: Elizabeth Mahan  
My Commission No.: 50179742  
My Commission Expires: 12/9/2026

**EXHIBIT "A"**

**AMENDMENT TO**

**AMENDED AND RESTATED**

**DECLARATION OF COVENANTS AND RESTRICTIONS**

**FOR**

**HAWKS NEST AT AQUARINA**

Additions in **bold underline**;  
 Deletions indicated by ~~strikethrough~~  
 Unaffected, omitted language indicated by ellipsis (...)

1. **Section 7.2 of the Amended and Restated Declaration of Covenants and Restrictions for Hawks Nest at Aquarina is hereby amended to read as follows:**

**7. GENERAL COVENANTS AND USE RESTRICTIONS.**

(Section 7.1 Remains Unchanged)

**7.2 Maintenance of Premises.** High weeds, underbrush, grass and other unsightly vegetation shall not be permitted to grow or remain upon any Parcel, Tract, and/or Common Area, and no refuse or waste shall be allowed to be placed or suffered to remain upon any Parcel or Neighborhood Common Area. To the extent that the Association is not responsible for performing the maintenance and/or upkeep described in this Section 7.2, if any Owner and/or Neighborhood Association permits the growth or such weeds, high grass, underbrush or other unsightly vegetation, and fails to correct same after reasonable notice from the Association, the Association shall have the right to enter upon the premises and make such corrections, and if it does so the Association may charge the responsible Owner and/or Neighborhood Association for the cost of the corrections. Until paid, this Charge shall be a lien against the offending Parcel and/or Neighborhood Common Area. All laws, landscaping and sprinkler systems and all Structures, improvements and appurtenances shall at all times be kept in safe, and attractive condition, and all Structures shall be maintained in a finished, painted and attractive condition. Each Owner shall be responsible for keeping the interior and exterior of that Owner's Lot, Parcel and/or Living Unit in a clean, safe and orderly condition and in good repair to the extent that the Association is not responsible for doing so pursuant to this Amended Declaration. If any Owner and/or Neighborhood Association fails and/or refuses to perform the required maintenance and/or repairs, and continues to fail and/or refuse to correct same after reasonable notice by the Association, the Association shall have the right to enter upon the premises and make such corrections; and if it does so the Association may charge the responsible Owner and/or Neighborhood Association for

the cost of the corrections. Until paid, this Charge shall be a lien against the offending Parcel and/or Neighborhood Common Area.

~~Notwithstanding anything to the contrary herein or in the Governing Documents, for only those Parcels, Lots, Living Units and/or Residences not located within a Neighborhood Association, the Association~~ **Each Owner** shall be responsible ~~only~~ for the following **with respect to that Owner's Parcel, Lot, and/or Living Unit**: exterior painting, exterior wall maintenance, repairs, reconstruction and replacement; roof maintenance, repairs, reconstruction and replacement; reconstruction and replacement of foundations; replacing and reconstructing those portions of each wall partially surrounding a patio, courtyard and/or swimming pool appurtenant to a Lot, Parcel and/or Living Unit which is visible from the outside of the Lot, Parcel and/or Living Unit; reconstructing and replacing window casements of each Living Unit (~~but specifically excluding~~ **including, without limitation**, doors, windows, screens, gutters and/or downspouts of each Living Unit). ~~The Board shall have the authority to delegate the responsibility of ordering and/or performing the work required by this Section 7.2 to a management company and/or designated agent.~~ The Association shall also **may, but is not required to**, be responsible for maintenance, upkeep, repairs, replacement, mowing, trimming and edging of all landscaping and driveways. Notwithstanding the foregoing, an Owner of a Living Unit shall be responsible for the above to the extent that such Owner's actions, negligence and/or willful misconduct, or the actions, negligence and/or willful misconduct of such Owner's Family, Guest, Invitees and/or Tenants are the reason for such work, maintenance, repairs and/or replacement being required.

(The remainder of Section 7 of the Amended and Restated Declaration of Covenants and Restrictions for Hawks Nest at Aquarina Remains Unchanged)

2. **Section 14.1 of the Amended and Restated Declaration of Covenants and Restrictions for Hawks Nest at Aquarina is hereby deleted in its entirety and the following is substituted in its place:**

**14. INSURANCE: RECONSTRUCTION AFTER CASUALTY.**

**14.1 Duty to Insure, Duty to Reconstruct and Clean Up.** Each Owner shall at all times maintain adequate property and/or casualty insurance in amounts equal to the replacement cost on and/or for that Owner's: (a) Lot, Parcel, and/or Tract; (b) any Structures on that Owner's Parcel, Tract, and/or Lot; and/or (c) Living Unit. Each Neighborhood Association, if the applicable Neighborhood is a condominium created and/or existing pursuant to Chapter 718 of the Florida Statutes, as it may be amended and/or renumbered from time to time, shall at all times maintain adequate property and/or casualty insurance in amounts equal to the replacement cost on and/or for all such areas of that Neighborhood required to be insured by the Neighborhood Association pursuant to Chapter 718 of the Florida Statutes, as it may be amended and/or renumbered from time to time. The Association shall have no obligation, duty, and/or responsibility of any kind to obtain and/or maintain property and/or casualty insurance for any Living Unit, Lot, Parcel, and/or Tract that is owned by an Owner. Notwithstanding anything to the contrary in this Declaration, this Section 14.1 shall control in the event of any conflict with any other portion of this Declaration.

If any Living Unit or other improvements and/or Structures located on any Parcel, Lot, Neighborhood Common Area, and/or Tract are destroyed or damaged as a result of fire, windstorm, flood, tornado, hurricane, and/or other casualty of any kind, the Owner or Neighborhood Association, as applicable, shall:

(A) Cause repairs and/or replacements to be commenced no later than six (6) months after the date such damage and/or destruction occurs, and complete those repairs and/or replacements within six (6) months thereafter. All such repairs and/or replacements must be approved in writing by the ARC. Unless changes, modifications, revisions, repairs, and/or replacements are approved in advance by the ARC, the Owner or Neighborhood Association, as applicable, must restore the damaged property to substantially the same configuration as existed before the casualty event, and to be structurally and architecturally compatible with any adjoining improvements which share a party wall, and

(B) Promptly cause all debris, damaged improvements, damaged property, and/or other unsightly materials to be removed from the applicable site and/or location

(Sections 14.2 through 14.7, inclusive, Remain Unchanged)

**3. Section 14.8 of the Amended and Restated Declaration of Covenants and Restrictions for Hawks Nest at Aquarina is hereby deleted in its entirety.**

**4. Section 14.9 of the Amended and Restated Declaration of Covenants and Restrictions for Hawks Nest at Aquarina is hereby amended to read as follows:**

**14.9 14.8 Association's Right of Entry.** For the purpose of performing the duties authorized by this Section 14, the Association, through its duly authorized agents and employees, shall have the right to enter upon any Living Unit, Lot, Tract, or Parcel at reasonable hours and perform such duties.

(The remainder of the Amended and Restated Declaration of Covenants and Restrictions for Hawks Nest at Aquarina Remains Unchanged)

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