

Prepared by and return to:
Meredith Peck Ralston, Esquire
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Naples, Florida 34103

CERTIFICATE OF AMENDMENT

THE UNDERSIGNED, being the duly elected and acting President of Vista III at Heritage Bay Condominium Association, Inc., a Florida not-for-profit corporation, does hereby certify that at a duly called meeting of the members held on November 13, 2019, where a quorum was present, after due notice, the attached Amendments to the Declaration of Condominium for Vista III at Heritage Bay, a Phase Condominium, which amend the Declaration of Condominium for Vista III at Heritage Bay, a Phase Condominium as originally recorded on January 22, 2008 at O.R. Book 4322, Page 3638, *et. seq.*, of the Official Records of Collier County, Florida, were approved by more than fifty percent of the voting interests of the Association present and voting and more than sixty-six and two-thirds percent of the Board, in person or by proxy, and were thus duly passed and approved.

The Declaration of Condominium for Vista III at Heritage Bay, a Phase Condominium is hereby amended in accordance with Exhibit A attached hereto and incorporated herein and the amendments are now in full force and effect.

Dated: January 23, 2020

Vista III at Heritage Bay Condominium Association Inc., a Florida not-for-profit corporation

Witness

Printed Name: Jennifer Placeres

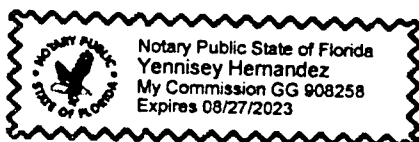
Witness

Printed Name: Estefania Cordoba

By: Steven W. Thompson, President

STATE OF FLORIDA
COUNTY OF COLLIER

Acknowledged and subscribed before me, an officer duly authorized in the above mentioned state and county to take acknowledgments, by means of physical presence, this 23 day of January, 2020, by Steven W. Thompson, President of Vista III at Heritage Bay Condominium Association, Inc. and who did take an oath, on this 23 day of January, 2020.



Notary Public

Yennisey Hernandez

Printed name of Notary

My Commission Expires: 8/27/23

**AMENDMENTS TO THE DECLARATION OF CONDOMINIUM FOR VISTA III AT
HERITAGE BAY, A PHASE CONDOMINIUM**

Additions are indicated by underlining. Deletions are indicated by ~~strike-through~~.

1. Proposed Amendment to Section 6 to read as follows:

6. Amendments.

61. ~~Amendment by Association. Proposal.~~ Amendments to this Declaration may be proposed by the Board of Directors, or by written petition to the Board signed by the owners of 10 percent or more of the total number of units in the condominium.

6.1.1. ~~Proposal.~~ Amendments to this Declaration may be proposed by the Board by resolution adopted by a majority vote of the Directors present at any regular or special meeting of the Board at which a quorum is present or by the Owners of a majority of the Units, whether by such vote of such Owners as members of Association at a special meeting or regular meeting of the members or by written instrument signed by them. Any amendment to this Declaration so proposed by the Board or members of Association shall be transmitted to the President of the Association, or, in the absence of the President, to a Vice President or other acting chief executive officer.

6.1.2. ~~Notice.~~ Notice of the subject matter of the proposed amendment to this Declaration shall be included in the notice of any regular or special meeting of the Association at which such proposed amendment is to be considered.

6.1.3. ~~Adoption.~~ Except as elsewhere provided, approval of an amendment must be by affirmative vote of:

6.1.3.1. ~~Unit Owners owning in excess of fifty percent (50%) of the Voting Interests represented at any meeting at which a quorum has been attained and by not less than sixty-six and two-thirds percent (66-2/3%) of the Board; or~~

6.1.3.2. ~~Unit Owners owning not less than eighty percent (80%) of the Voting Interests represented at any meeting at which a quorum has been attained; or,~~

6.1.3.3. ~~Prior to the date upon which Unit Owners other than Developer control the Board, one hundred percent (100%) of the Board. Notwithstanding the foregoing, if the Act requires Unit Owner approval for the amendment being considered, then the amount of Unit Owner approval required under the Act will also be necessary for the approval of the amendment.~~

6.1.4. ~~Not Present.~~ Directors not present in person at the meeting considering the amendment may express their agreement or disagreement in writing, provided that the same is delivered to the Secretary at or prior to the meeting. Such agreement or disagreement may not be used as a vote for or against the action taken and may not be used for the purpose of creating a quorum.

62 Notice; Procedure. Upon any amendment or amendments to this Declaration being proposed by the Board or unit owners, such proposed amendment or amendments shall be transmitted to the President of the Association, or other officer of the Association in the absence of the President. The appropriate notices and copies of the proposed amendments shall then be mailed to the members not later than the next annual meeting for which proper notice can be given.

~~By Developer.~~ For so long as Developer holds any Units in the Condominium for sale in the ordinary course of business, Developer may, without joinder or consent of Association or any Unit Owner or mortgagee, adopt and record an amendment to this Declaration for the purpose of correcting a defect, error or omission in or of this Declaration not materially affecting the rights of Unit Owners, lienors or mortgagees. Without in any way limiting the generality of the foregoing, and except as prohibited by the Act as it exists on the date hereof (e.g., those actions governed by Section 718.110(4) and (8) of the Florida Statutes (2005)), as long as Developer owns one or more Units for sale in the ordinary course of business, Developer shall have an absolute right to make any amendment to this Declaration, including, without limitation, any amendments that are requested or required by an Institutional First Mortgagee or prospective Institutional First Mortgagee or any other governmental or quasi-governmental body which owns or expects to own one or more institutional first mortgages on Units or to insure the payment of one or more such mortgages to enhance the marketability of its first mortgages on Units to one or more of the foregoing.

63. Approval Requirements. Except as otherwise provided by law, or by specific provision of the condominium documents, this Declaration may be amended by concurrence of the owners of more than fifty percent (50%) of the units present, in person or by proxy, and voting at any annual or special meeting at which a quorum is present, provided that notice of any proposed amendment has been given to all the members in accordance with law. Amendments may be adopted without a meeting following the procedures set forth in the Bylaws. Amendments correcting errors, omissions or scrivener's errors may be executed by the Officers of the Association, upon Board approval, without need for Association membership vote.

Execution and Recording. An amendment, other than amendments made by Developer pursuant to the Act or this Declaration, shall be evidenced by a certification of Association which shall include recording information identifying this Declaration and shall be executed in the form required for the execution of a deed. Amendments by Developer must be evidenced in writing, but a certificate of Association is not required. An amendment of this Declaration is effective when properly recorded in the Public Records of County.

6.4 Recordation. A copy of each amendment shall be attached to a certification that the amendment was duly adopted as an amendment to the Declaration, which certificate shall be executed by officers of the Association with the formalities of a deed. The amendment is effective when the certificate and copy of the amendment are recorded in the Public Records of Collier County, Florida.

~~Procedure. The procedure for adopting amendments and the form of all amendments shall be in conformance with the requirements of the Act.~~

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2. Proposed addition of Section 7.10 and to read as follows:

7.10 Delegation of Maintenance Responsibility to the Commons Association.

The Association through its Board of Directors may delegate its responsibility for performing the maintenance, repairs and replacement of Condominium property to the Commons Association, the cost of which shall be charged to the Association by the Commons Association and become part of the Common Expenses of the Association. If the maintenance responsibility is delegated to the Commons Association, the Commons Association shall have the same rights of access to Units as provided to the Association under Section 7.6 hereof.

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3. Proposed amendment to Section 9 to read as follows:

9. Operation of the Condominium by Association; Power and Duties; Limitation Upon Liability of Association. Association shall be the entity responsible for the operation of the Condominium, however, the Association through its Board of Directors may delegate the operation of the Association to the Commons Association as it deems appropriate. The power and duties of the Association shall include those set forth in the Articles and By-Laws. Notwithstanding the duty of Association to maintain and repair parts of the Condominium property, Association shall not be liable to Unit Owners for injury or damage, other than for the cost of maintenance and repair caused by any condition of the Condominium Property.

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4. Proposed amendment to Section 15.9 to read as follows:

15.9. Leases. No portion of a Unit (other than an entire Unit) may be rented. The Board has the authority to approve or disapprove the lease of a unit. The Board may charge a reasonable application fee not to exceed the amount allowed by Florida law (currently \$100), but may not charge a fee for approval of a renewal or extension of a lease with the same lessee. All leases shall be on forms approved by Association and shall provide (or, if it does not provide, shall be automatically deemed to provide) that (i) a material condition of the lease shall be the tenant's full compliance with the covenants, terms, conditions and restrictions of this Declaration (and all Exhibits thereto), the Articles and By-Laws of Association, and with any applicable rules and regulations adopted by the Association from time to time (before or after the execution of the lease), and any other document or instrument governing the Condominium,

including the governing documents of the Commons Association and (ii) Association shall have the right to terminate the lease upon default by the tenant in observing any of the provisions of this Declaration, the Articles and By-Laws of Association, applicable Rules or other applicable provisions of any agreement, document or instrument governing the Condominium, including the governing documents of the Commons Association, or administered by Association. Unit Owners are responsible for providing to their tenants copies of all such documents or instruments that the tenant is required to comply with as outlined in this section. Each lease must be a minimum period of one (1) month or thirty (30) days, whichever is less. No subleasing or assignment of lease rights by the tenant is permitted. Association may also charge a reasonable fee to offset the costs of a background check on a tenant. As a condition to the approval by Association of a proposed lease of a Unit, Association has the authority to require that a security deposit in an amount not to exceed the equivalent of one (1) month's rent (or such greater amount permitted from time to time by the Act) be deposited into an account maintained by Association as permitted by the Act. The security deposit shall protect against damages to the Common Elements or Association Property. A security deposit held by Association under this Section 15.9 shall be governed by Chapter 83 of the Florida Statutes, as it may be renumbered from time to time. The Unit Owner will be jointly and severally liable with the tenant to Association for any amount in excess of such sum which is required by Association to effect such repairs or to pay any claim for injury or damage to property caused by the negligence of the tenant. The Board may delegate the lease approval and disapproval powers to the Commons Association. The following leasing provisions also apply.

15.9.1. Notice. An owner intending to make a lease of their unit shall give to the Board of Directors or its designee written notice of such intention at least thirty days prior to the proposed transaction, together with the name and address of the proposed lessee and all proposed occupants, a copy of the proposed lease, including rent amount and time period of lease, and such other information as the Board may reasonably require. The applicant must sign for having received a copy of the condominium documents and rules and regulations. The Board may also require the personal appearance of any lessee and their spouse, if applicable, and a credit and background check as a condition of approval.

15.9.2. Approval. After the required notice and all information or appearances requested have been provided, the Board shall approve or disapprove the proposed lease within twenty days. If the Board neither approves nor disapproves a lease within the time stated above, such failure to act is deemed the equivalent of approval, and on demand the Board shall issue a certificate of approval to the lessee.

15.9.3. Disapproval. A proposed lease shall be disapproved only if a majority of the whole Board so votes, and in such case the lease is nullified and shall not be made. The Board has the power to evict on five days notice if the lessee under a disapproved lease occupies the premises. Appropriate grounds for disapproval shall include, but not be limited to, the following:

15.9.3.1. The unit owner is delinquent in the payment of assessments at the time the application is considered;

15.9.3.2. The unit owner has a history of leasing his unit to troublesome lessees and/or refusing to control and accept responsibility for the occupancy of his unit;

15.9.3.3. The unit owner has a history of leasing his unit to troublesome lessees and/or refusing to control and accept responsibility for the occupancy of his unit;

15.9.3.4. The prospective lessee has been convicted of a felony involving violence to persons or property, or a felony demonstrating dishonesty or moral turpitude;

15.9.3.5. The prospective lessee has a history of conduct which evidences disregard for the rights or property of others;

15.9.3.6. The lessee has during previous occupancy, evidenced an attitude of disregard for Association rules;

15.9.3.7. The prospective lessee gives false or incomplete information to the Association as part of the application procedure or the required transfer fees or security deposit are not paid; or

15.9.3.8. The owner fails to give proper notice of the intention to lease the unit to the Board of Directors.

15.9.4. Failure to Give Notice. If proper notice to the Board is not given, the Board of Directors may approve or disapprove the lease without prior notice. Any lease entered into without approval or in violation of the above provisions shall, at the option of the Board, be treated as a nullity, and the Board shall have the power to evict the lessee with five days notice, without securing consent to such eviction from the unit owner.

15.9.5. Committee. To facilitate approval of leases proposed during times when many of the members are not in residence, the Board of Directors may by resolution delegate its approval powers to an ad hoc committee, which shall consist of at least three members of the Association. The Board may also delegate its approval powers to the Commons Association.

15.9.6. Occupancy During Lease Term. No one but the lessee, their family members within the first degree of relationship by blood, adoption or marriage, and their spouses may occupy the unit except that guests may occupy the unit when the lessee is in residence for no more than fourteen days in any calendar month, and such guests must be registered with the manager. Occupancy is limited to two persons per bedroom. The Board of Directors shall have the authority to grant exceptions to the foregoing limitations on guest occupancy in order to avoid undue hardship under special circumstances. The granting of one exception does not constitute a precedent for the granting of other exceptions. During the lease, the tenant shall have all use rights in the Association property and common elements available for use generally by owners, and the unit owner shall have no such rights.

15.9.7. Occupancy in Absence of Lessee. If a lessee is absent from the unit for any period of time during the lease term, their family already in residence may continue to occupy the unit and may have house guests subject to the restrictions in 15.9.6 above. If the lessee and all of the family members mentioned in the foregoing sentence are absent, no other person may occupy the unit.

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5. Proposed Amendment to Section 15.17 to read as follows:

15.17 Units. Each Unit shall be used as a residence only, except as otherwise herein expressly provided and no commercial occupation or activity may be carried on in any Unit ~~except as such occupation or activity is permitted to be carried on by Developer under this Declaration.~~ Notwithstanding the foregoing, a Unit may contain a home office so long as no business invitees visit the Unit and home business activities do not pose a nuisance to other Unit Owners and residents. A Unit owned by an individual, corporation, partnership, trust or other fiduciary may only be occupied by the following persons, in addition to such persons' families and guests: (i) the individual Unit Owner, (ii) an officer, director, stockholder or employee of such corporation, (iii) a partner of or employee of such partnership, (iv) the fiduciary or beneficiary of such trust or other fiduciary, or (v) permitted occupants under an approved lease ~~or sublease of the Unit~~ (as described below), as the case may be. Occupants of an approved leased ~~or subleased~~ Unit must be the following persons, in addition to such person's families and guests: (i) an individual lessee ~~or sublessee~~, (ii) an officer, director stockholder or employee of a corporate lessee ~~or a sublessee~~, (iii) a partner or employee of a partnership lessee ~~or sublessee~~, or (iv) a fiduciary or beneficiary of a fiduciary lessee ~~or sublessee~~. Under no circumstances may more than one family reside in a Unit at one time. **"Families"** or words of similar import used herein shall be deemed to include spouse, parents, parents-in-law, brothers, sisters, children, grandchildren, unmarried couples and housekeepers. In no event shall occupancy (except for temporary occupancy by visiting guests) exceed two (2) persons per bedroom. The Board shall have the power to authorize occupancy of a Unit by person in addition to those set forth above. Units are also subject to the Use and Occupancy Restrictions contained in the Commons Association's Governing Documents.

15.17.1. Guest Occupancy in Absence of Owner. If the Owner and the Owner's family who permanently reside with the owner are absent from the Living Unit and are not occupying it, and the Living Unit has not been leased, the Owner may permit the Living Unit to be occupied by guests on a temporary basis. The Commons Association through its manager shall receive written notification at least three days prior to the guests occupying the Living Unit in absence of the Owner and the Owner shall provide the names and address of the proposed guest(s), dates of occupancy of the guest, and such other information as the Board may reasonably require. Guests are not allowed for a period of more than thirty days total in any twelve month period without the prior written approval of the Board of Directors. In considering such requests, the Board may consider factors set forth in section 3.15.4 hereof, and may charge a reasonable fee for review of occupancy requests. The Board may also pass additional rules concerning the approval process for requests to allow guests to stay for a period of more than thirty days in any calendar year including requiring the guest to submit to a criminal background check.

15.17.2. Guest Occupancy When Owner or Tenant Present. There is no restriction on the frequency of guests, whether related or unrelated to the owner or tenant, who may occupy a Living Unit in the presence of the Owner with the exception of any government regulations governing occupancy as long as the guest is occupying the unit overnight less than thirty days in any calendar year. If a guest is occupying the unit for thirty or more days in any calendar year, the guest must receive the prior written approval of the Board of Directors. In considering such requests, the Board may consider factors set forth in section 15.9.3 hereof, and may charge a reasonable fee for review of occupancy requests. The Board may also pass additional rules concerning the approval process for requests to allow guests to stay for a period of more than thirty days in any calendar year including requiring the guest to submit to a criminal background check.

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6. Proposed Amendment to Section 16.3 to read as follows:

16.3 Costs and Attorneys' Fees. In any proceeding arising because of an alleged failure of a Unit Owner or Association to comply with the requirements of the Act, this Declaration, the exhibits attached hereto or the Rules, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees, paraprofessional fees and costs (pre-trial and at all levels, including trial and appellate levels) as may be awarded by the court. The Association may also recover attorney's fees it incurs because of noncompliance with the governing documents in cases where no court action is filed including, but not limited to, pre-litigation fees incurred in the collection of delinquent assessments, and fees reasonably incurred by the Association in obtaining compliance with the governing documents.

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7. Proposed addition of Section 16.5 and to read as follows:

16.5 Delegation of Enforcement Powers to Commons Association. The Association through its Board of Directors may delegate its enforcement powers to the Commons Association. In the event that an Owner fails to abide by the Governing Documents then he or she may be subject to any action, right of entry, fine, suspension of use rights or other remedy contained in the governing documents, including Section 16.2 hereof, or applicable Florida law. Each remedy shall be non-exclusive and in addition to all other rights and remedies to which the Commons Association may be entitled. Failure by the Commons Association to enforce any provision of the governing documents or exercise any right or remedy contained therein shall not be deemed a waiver of the right to do so thereafter.