

Prepared by:
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ERROL BY THE SEA CONDOMINIUM

AMENDMENT TO DECLARATION OF CONDOMINIUM

THIS AMENDMENT TO DECLARATION OF CONDOMINIUM ("Amendment") is made as of this 3rd day of August, 2021, by **ERROL BY THE SEA ASSOCIATION, INC.**, a Florida corporation which has succeeded to the rights of the Developer as defined in the Declaration ("Declarant").

RECITALS

A. Pursuant to a Declaration of Condominium and attached Exhibits recorded on June 7, 1974 in the Volusia County Public Records ("Public Records") in Book 1728, pages 1304-1330, as amended by an amendment recorded August 7, 1974 in the Public Records in Book 1739, pages 1256-1257, further amended by amendment dated September 19, 1977 in the Public Records in Book 1924, pages 0272-0284, and as restated in a Compilation of the Declaration dated February 8, 2017 in the Public Records in Book 7357, page 2154 *et seq.* (the "Declaration"), a condominium known as Errol by the Sea Condominium (the "Condominium") was created. References to sections in this Amendment refer to the sections as numbered in the Compilation of Declaration dated February 8, 2017.

B. The Declaration provides that an Amendment may be made to the Declaration provided that not less than fifty-one percent (51%) of the unit owners constituting a quorum at a duly called meeting of the members of the Errol by the Sea Association, Inc. ("Association") by duly adopted resolution of the Board of Directors of the Association.

C. The members are desirous of amending the Declaration to provide for the collection of a Capital Contribution in conjunction with the sale of Units with the Association.

D. The Members were provided notice of the meeting of the Members that occurred on December 5, 2020.

E. At a duly called meeting of the members of the Association on December 5, 2020, by resolution affirmed as required by the Declaration, the following amendment shall be made to the Declaration.

AMENDMENT

The Declaration is amended to include the following additional language to Section 8 of the Declaration:

“8.8 Capital Contribution. Upon the sale or transfer of a Unit in the Condominium to a third party in an arms length transaction, the third party or new owner shall be required to make a capital contribution to the reserve account(s) of the Association in an amount equal to three times the amount of the regular monthly assessments levied against such Unit. The transfer of a Unit among family members, the transfer to a trust or from a trust to a beneficiary, or transfer to an heir or heirs upon the death of a Unit owner shall be exempt from the capital contribution payment set forth herein. Otherwise, the terms of Section 8 shall apply to this capital contribution payment and may be enforced in accordance with Section 8 of the Declaration.”

[SIGNATURE PAGE ATTACHED]

F. **Construction.** To the extent that the terms, covenants, and conditions of this Amendment are inconsistent with the terms of the Declaration, the terms, covenants, and conditions of this Amendment shall control. In all other respects, the terms, covenants, and conditions of the Declaration shall remain in full force and effect and unchanged in any manner.

G. **Headings.** The paragraph headings have been inserted for convenience and reference only and shall not be considered or referred to in resolving questions and interpretation or construction. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular, and the masculine, feminine and neuter genders shall each include the others.

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

IN WITNESS WHEREOF, the foregoing has been adopted by the owners in accordance with the Declaration.

Witnesses:

Signature: [Signature]
Print Name: Eugene Tolot

Signature: [Signature]
Print Name: Kerri Gallagher

STATE OF FLORIDA)
COUNTY OF VOLUSIA)

Association:

Sign: [Signature]
Print: Cheryl A. Fazio
as President of Errol by the Sea Condominium Association, Inc.

The foregoing instrument was acknowledged before me, by means of ☒ physical presence or ☐ online notarization, this 24 day of August 2021, by Cheryl Fazio as the President of Errol by the Sea Condominium Association, Inc. who is personally known to me or who produced a Driver's License as identification.



[Signature]
Notary Public
My Commission Expires: 01/30/22

Witnesses:

Signature: Kerri Gallagher

Print Name: Kerri Gallagher

Signature: Nickolas LaBeau-Potter

Print Name: Nickolas LaBeau-Potter

STATE OF FLORIDA)
COUNTY OF VOLUSIA)

Association:

Sign: Deborah Gunter

Print: Deborah Gunter
as Secretary of Errol by the Sea Condominium
Association, Inc.



The foregoing instrument was acknowledged before me, by means of ☒ physical presence or ☐ online notarization, this 3rd day of August 2021, by Deborah Gunter as the Secretary of Errol by the Sea Condominium Association, Inc. who is personally known to me or who produced a Driver's License as identification.

Michael Mayberry
Notary Public

My Commission Expires: 01/30/2022