

This Instrument Prepared by:
Lisbeth P. Bruce, Esquire
Blalock, Walters, Held & Johnson, P.A.
802 11th Street West
Bradenton, FL 34205
(941) 748-0100

**SECOND AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR MANDALAY**

THIS SECOND AMENDMENT TO DECLARATION, made as of the 17 day of October, 2007, by WILMINGTON LAND COMPANY, a Florida corporation (hereinafter referred to as "Developer").

RECITALS:

WHEREAS, Developer is the Developer of a planned single-family residential community known as "Mandalay" (the "Neighborhood") and has caused the Declaration of Covenants, Conditions and Restrictions for Mandalay (the "Declaration") to be recorded in Official Records Book 1915, Page 6706, as amended in Official Records Book 1944, Page 2218, both of the Public Records of Manatee County, Florida; and

WHEREAS, the Developer is the Developer Member of Mandalay Homeowner's Association, Inc. (the "Association") and is actively developing the Neighborhood, and is therefore empowered to amend the Declaration pursuant to Paragraph 8.12 thereof; and

WHEREAS, Developer desires, pursuant to Article 2.02(a) of the Declaration, to bring within the plan and operation of such Declaration the additional real property described below, together with the complimentary additions and modifications as set forth below.

NOW THEREFORE, for and in consideration of the premises and for other good and valuable considerations, the Developer, for itself and its legal representatives, successors and assigns, hereby amends the Declaration as follows:

1. **Recitals.** The foregoing recitals are true and correct and are hereby incorporated herein.
2. **Addition to Existing Property.** Article 2.01 of the Declaration is amended by the addition of the following at the end thereof: "Also subject to this Declaration is all existing real property within Mandalay, Phase 2, as per the Plat thereof recorded in Plat Book 52, Pages 154, thru 160, of the Public Records of Manatee County, Florida."
3. **List of Holdings.** The List of Holdings attached to the Declaration as "Exhibit A" is hereby deleted in its entirety and replaced with the "Exhibit A" attached to this Amendment and incorporated herein.
4. **Right of Entry.** Provisions regarding County right of entry and compliance with Manatee County Land Development Code are attached hereto as "Exhibit B" and incorporated herein.

C:\DOCUMENTS AND SETTINGS\HEATHERM\LOCAL SETTINGS\TEMPORARY INTERNET FILES\OLKDU\UPDATED SECOND AMENDMENT TO DECLARATION OF COVENANTS CONDITIONS AND RESTRICTIONS FOR MANDALAY (2).DOC

ACCEPTED IN OPEN SESSION

OCT 23 2007

BOARD OF COUNTY COMMISSIONERS
MANATEE COUNTY, FLORIDA

5. **Notice to Buyers.** A Notice to Buyers is attached hereto as "Exhibit C" and incorporated herein. The current proposed annual assessment and capital contribution by the Association for the year running from January 1, 2007 through December 31, 2007, is \$980.00.

6. **Maintenance Program.** An initial Maintenance Program for the Neighborhood is attached hereto as "Exhibit D" and incorporated herein.

7. **Budget Information.** A Projected First Year Budget and Projected 10 Year Budget for Mandalay Phase 2 are attached hereto as "Exhibit E" and "Exhibit F" respectively and incorporated herein. All budget figures, irrespective of any previous approvals, are subject to change from time to time. All budgets are estimates only and should not be relied upon as definitive figures for the purpose of establishing actual assessments.

8. **Effect on Remainder of Declaration.** Except to the extent modified herein, all terms and conditions of the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereunto set their hands and seals the day and year first above written.

WILMINGTON LAND COMPANY,
a Florida corporation

[Signature]

Print Name Christopher Roore

[Signature]

Print Name Marissa Newton

By:

[Signature]
Signature

JAMES R. SCHIER

Print Name

Vice President

Print Title

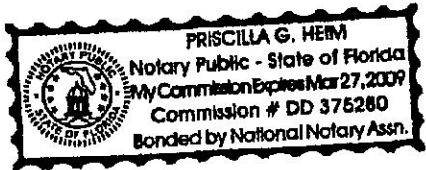
Mailing Address:
8210 Lakewood Ranch Boulevard
Bradenton, FL 34202

STATE OF Florida
COUNTY OF Manatee

The foregoing instrument was subscribed and sworn to before me this 17th day of October, 2007, by James R. Schier, as Vice President of Wilmington Land Company, a Florida corporation

who is personally known to me who produced _____ as identification, and who acknowledged before me that he/she executed the same freely and voluntarily for the purposes therein expressed under authority duly vested in him/her by said corporation.

My Commission Expires:



[Signature]
Signature

PRISCILLA G. HEIM

Printed Name

NOTARY PUBLIC

**"EXHIBIT A"
LIST OF HOLDINGS,
OF MANDALAY, A SUBDIVISION**

The following is a list of holdings of Mandalay Phases 1 and 2, completed by the Developer, to-wit:

1. TRACT A; designated as Private Roadway Tract/Public Utility and Drainage Easement; Consists of: 313,572 S.F. mol within Phase 1 and 108,842 S.F. mol within Phase 2.
2. TRACT B-1; designated as Open Space (Private); Consists of: 14,992 S.F. mol
3. TRACT B-2; designated as Landscape and Drainage/Access Easement (Private); Consists of: 46,551 S.F. mol
4. TRACT B-3; designated as Landscape Easement (Private); Consists of: 17,514 S.F. mol
5. TRACT C-1; designated as Conservation Easement/Public Flowage Easement; Consists of 86,288 S.F. mol
6. TRACT C-2; designated as Conservation Easement/Public Flowage Easement; Consists of 177,148 S.F. mol
7. TRACT D-1; designated as Drainage/Access Easement and 10ft. Private Landscape Buffer and Private Drainage/Access Easement; Consists of 98,654 S.F. mol
8. TRACT D-2; designated as Drainage/Access Easement (Private); Consists of: 179,546 S.F. mol
9. TRACT D-3; designated as Drainage/Access Easement (Private); Consists of: 128,054 S.F. mol
10. TRACT D-4; designated as Drainage/Access Easement (Private); Consists of: 69,320 S.F. mol
11. TRACT D-5; designated as Drainage/Access Easement (Private); Consists of: 112,470 S.F. mol
12. TRACT D-6; designated as Drainage/Access Easement (Private); Consists of: 80,142 S.F. mol
13. TRACT D-7; designated as Drainage/Access Easement (Private); Consists of: 9,575 S.F. mol
14. TRACT W; designated as Irrigation Well Site (Private); Consists of: 390 S.F. mol
15. TRACT Z; designated as Public Pump Station Site/Utility Easement; Consists of: 441 S.F. mol

It is contemplated that the Association will, upon turnover of the Association, take title to the above described common areas and use and maintain the same pursuant to the Restrictions respecting said Subdivision and the Land Development Code of Manatee County. In addition to the above described tracts, the Association will be responsible for maintenance of the neighborhood walls, drainage system components and other common neighborhood landscaping and other common improvements located within the following areas:

- a. The 10' Private Wall/Fence Maintenance and Landscape and Access Easement located on Lots 3-20, Block 7, Phase 2 and Lots 1-3, Block 6, Phase 2;
- b. The 15' Private Wall/Fence Maintenance and Landscape and Access Easement on Lot 4, Block 6, Phase 2;
- c. The 15' Drainage/Access Easement on Lots 3-5, 10-13, Block 5, Phase 2, and Lots 1-9, Block 4, Phase 1; and
- d. The 20' Private Drainage Access Easement between Lots 4 and 5, Lots 1 & 7 of Block 5, Phase 2.

EXHIBIT B

RIGHT OF ENTRY

and

COMPLIANCE WITH MANATEE COUNTY LAND DEVELOPMENT CODE

The Manatee County Land Development Code, Ordinance 90-01, adopted on July 25, 1990 by the Board of County Commissioners of Manatee County, Florida requires adequate ownership and management measures be provided in residential developments to protect and perpetually maintain all common improvements and open space. The following provisions are stipulated in Chapter Nine of the Land Development Code (Subdivision Procedures and Standards), Section 909.5, and are hereby incorporated as part of the Declaration of Covenants, Conditions, and Restrictions for Mandalay.

- I. **Right of Entry by County.** The Manatee County law enforcement officers, health and pollution control personnel, emergency medical service personnel, and fire fighters, while in pursuit of their duties, are hereby granted authority to enter upon any and all portions of the Common Property as may be necessary to perform those duties.
- II. **Ownership of the Community Common Areas.** Notwithstanding anything herein contained to the contrary, the Association shall not dispose of any Common Property, by sale or otherwise, except to an organization conceived and organized to own and maintain such Common Property, without first offering to dedicate the same to Manatee County or other appropriate governmental agency.
- III. **Disturbance of Common Areas.** No lands in the Common Property shall be denuded, defaced, or otherwise disturbed in any manner at any time, except for maintenance or repair, without the prior written approval of the Manatee County Planning Director.
- IV. **Maintenance and Care.** In the event the Association or its successors fail to maintain the Common Property in reasonable order and condition, the provisions of the Manatee County Land Development Code allow for Manatee County, upon notice and hearing, to enter said Common Property for the purpose of maintaining same. The cost of such maintenance by the County shall be assessed pro-rata and such charges will be made payable by property owners within sixty (60) days after receipt of a statement therefor, and shall become a lien on the property if unpaid at the end of such period.
- V. **Violations.** Notwithstanding any other provision of this Declaration, no violation of federal, state, or local law shall be permitted.
- VI. **Amendments.** Notwithstanding any other provision of this Declaration relating to amendments, neither this Article nor any provision of this Declaration affecting this Article may be amended without the written consent of Manatee County.

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EXHIBIT C (page 1 of 4)

NOTICE TO BUYERS

To the Purchasers of Lots in Mandalay, Manatee County, Florida:
YOU ARE HEREBY NOTIFIED that the purchase of your Lot is subject to:

1. The Declaration of Covenants, Conditions and Restrictions for Mandalay, as amended (the "Declaration"), Public Records of Manatee County, Florida, as amended and supplemented from time to time, copies of which shall be provided upon execution of your contract to purchase.
2. Ownership of a Lot in said Neighborhood automatically makes you a member of Mandalay Homeowner's Association, Inc., and you are subject to its Bylaws and Regulations. Each Lot entitles its Owner to one vote in the affairs of the Association.
3. The Association has the right and power to assess and collect assessments, as provided in its Bylaws, for, among other things, the costs of maintenance and operation of the Common Property, which you have a right to enjoy, in accordance with said Restrictions, as well as Lot maintenance services which may be provided at the discretion of the Developer, and after the Turnover Date, of the Association. A copy of the proposed budget for the first year of operations is attached hereto.
4. The initial proposed annual assessment by the Association for the year running from January 1, 2003 through December 31, 2003, is \$890.00.

You are hereby notified that the Association may increase that amount as may be required to maintain the amenities of the Neighborhood. Each Lot Owner who acquires his Lot directly from Developer (or Authorized Builder, if the one-time contribution was not paid by the Authorized Builder at the time of acquiring the Lot) to pay to the Association a one-time contribution of Eight Hundred Ninety and no/100 Dollars (\$890.00) (the "Capital Contribution") to be used by the Association solely for the payment of Association Expenses. Capital Contributions are not advance payments of Assessments and shall not affect the liability of an Owner or a Lot for Assessments. In the event the Builder shall have paid the Capital Contribution to the Association at the time the Builder purchased a Lot from the Developer, Builder shall have the right to seek reimbursement from its purchaser at closing. So long as the Builder owns any Lots within the Neighborhood, the amount of the Capital Contribution shall not be changed except with the express approval of the Builder.

5. The owner of each Lot shall be responsible for the planting and maintenance of replacement trees on such Lot as required by Manatee County.
6. It shall be the responsibility of each Owner at the time of construction of a building, residence or structure, to comply with the requirements, if any, of the Manatee County Public Works Department to have the ability to connect into any system for reclaimed effluent irrigation which may be installed in the future.
7. The Association in its discretion may elect that the Association provide from time to time certain Lot maintenance services, such as by way of example, mowing, fertilizing, yard pest control, tree trimming, landscape maintenance or other similar services ("Maintenance Services"). The Association shall have the discretion of implementing such services on an optional or mandatory basis for the services elected to be provided. Each Owner shall be obligated to pay its respective share of the monthly service charges and other costs and expenses of the Association in providing such Maintenance Services, which service charges, costs and expenses are hereby deemed to be Association Expenses, and which shall be assessed and collected from the Owners in accordance with the provisions of the Declaration. Such Maintenance Services shall be provided and may be discontinued at the discretion of the Association.

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8. Landscaping Local Residential Streets, Section 715.3.4 (Supplement No. 12) Manatee County Land Development Code requires the following:

- Each property owner shall plant within twenty-five (25) feet of the right-of-way of each local street within the subdivision prior to receiving a Certificate of Occupancy.
- One canopy tree meeting the requirements of Section 715.4 of the Manatee County Land Development Code for every fifty (50) linear feet, or substantial fraction thereof, of the right-of-way.
- None of these required trees shall be planted within a public or private utilities easement.
- The trees shall be spaced no closer together than twenty-five (25) feet, unless a decorative grouping or alternative method is shown and approved on the final site plan or landscape plan.
- Existing native trees should be used to fulfill these requirements wherever they meet the spacing and size requirements of this paragraph.
- Responsibility for installation and maintenance is each property owners. In the event a street tree dies or is removed, the owner of the lot is responsible to replace the tree within 30 days. Residential street trees are considered replacement trees for the Subdivision and must be protected, and should they die they must be replaced in accordance with the foregoing.

Definition of a Canopy Tree per the Definitions and Rules of Construction:

A canopy tree shall mean a tree species which produces one (1) main trunk and normally reaches a height of thirty (30) feet or more upon maturity. All canopy trees shall be a minimum of two and one-half (2 1/2) inches in diameter breast height at the time of planting, unless otherwise indicated.

A Required Trees - Planting Summary is attached hereto as Attachment "A".

9. The following language is included as part of the deed restrictions for each lot:

- Unless otherwise specified by the terms of the applicable Southwest Florida Water Management District permit, two copies of all information and reports required by the applicable permit shall be submitted to:

Sarasota Regulation Department
Southwest Florida Water Management District
670 Fruitville Road
Sarasota, FL 34240-9711

The applicable permit number, title of report or information and event (for recurring report or information submittal) shall be identified on all information and reports submitted.

- No owner of property within the subdivision may construct or maintain any building, residence, or structure, or undertake or perform any activity in the wetlands, wetland mitigation area(s), buffer area(s), upland conservation area(s) and drainage easement(s) described in the approved permit and recorded plat of the subdivision, unless prior approval is received from the Southwest Florida Water Management District, Sarasota Regulation Department.

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- No construction activities may be conducted relative to any portion of the surface water management system facilities. Prohibited activities include, but are not limited to: digging or excavation; depositing fill, debris or any other material or item; constructing or altering any water control structure; or any other construction to modify the surface water management system facilities. If the project includes a wetland mitigation area, as defined in Section 1.7.24, or a wet detention pond, no vegetation in these areas shall be removed, cut, trimmed or sprayed with herbicide without specific written approval from the District. Construction and maintenance activities which are consistent with the design and permit conditions approved by the District in the Environmental Resource Permit may be conducted without specific written approval from the District.
- The District has the right to take enforcement measures, including a civil action for injunction and/or penalties, against the Association to compel it to correct any outstanding problems with the surface water management system facilities.
- Any amendment of the declaration of protective covenants, deed restrictions or declaration of condominium affecting the surface water management system facilities.
- If the Association ceases to exist, all of the lot owners, parcel owners or unit owners shall be jointly and severally responsible for operation and maintenance of the surface water management system facilities in accordance with the requirements of the Environmental Resource Permit, unless and until an alternate entity assumes responsibility as explained in Subsection 2.6.2.2.4.h.
- For projects which have on-site wetland mitigation as defined in Section 1.7.24, which requires on going monitoring and maintenance, the declaration of protective covenants, deed restrictions or declaration of condominium shall include a provision requiring the Association to allocate sufficient funds in its budget for monitoring and maintenance of the wetland mitigation area(s) each year until the District determines that the area(s) is (are) successful in accordance with the Environmental Resource Permit.
- Each property owner within the subdivision at the time of construction of a building, residence, or structure shall comply with the construction plans for the surface water management system approved and on file with the Southwest Florida Water Management District (SWFWMD).
- The operation and maintenance entity shall submit inspection reports in the form required by the District, in accordance with the following schedule.

For systems utilizing retention or wet detention, the inspections shall be performed two (2) years after operation is authorized and every two (2) years thereafter.
- The removal of littoral shelf vegetation (including cattails) from wet detention ponds is prohibited unless otherwise approved by the District. Removal includes dredging, the application of herbicide, cutting, and the introduction of grass carp. Any questions regarding authorized activities within the wet detention ponds shall be addressed to the District's Regulation Manager, Sarasota Service Office.
- All lots abutting wet detention ponds shall have the following language (or similar language as approved in writing by the Sarasota Regulation Department) as part of the deed restrictions:

"The lot owners shall not remove native vegetation (including cattails) that becomes

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- (b) Construction or placing of utilities on, below or above the ground without appropriate local, state and federal permits or other authorization.
- (c) Dumping or placing of soil or other substances or material as landfill or dumping or placing trash, waste, unsightly or offensive materials.
- (d) Removal, mowing, or trimming of trees, shrubs or other vegetation.
- (e) Excavation, dredging or removal of loam, peat, gravel, soil, rock or other material substances in such manner as to affect the surface.
- (f) Surface use except for purposes that permit the land or water areas to remain in its natural condition.
- (g) Any activity detrimental to drainage, flood control, water conservation, erosion control, soil conservation or fish and wildlife habitat preservation.
- (h) Acts or uses detrimental to such retention of land or water areas.
- (i) Application of fertilizers, pesticides, herbicides

11. The Plat for Mandalay Phase I (a.k.a. Villages at Lockwood Ridge Village Two) PDM11-00-02/02-S-41(F) lies completely within flood zone X per Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) panels 120153 0334C and 120153 0342C revised 7/15/92.

12. In order to provide for an alternative and cost effective supply of water for the irrigation of the Lots and Common Property within the Neighborhood, Developer, its affiliates and/or assigns and the Association have entered into a separate Stormwater Easement License and Reimbursement Agreement, providing for the installation of the Central Irrigation System, establishing licenses and easements for the operation of the Central Irrigation System and setting forth the rights and obligations of the parties relating thereto. Title to the all property within the Neighborhood and each Lot shall be subject to, and the Association and all Lot Owners will be bound by, the provisions of the Stormwater Easement License and Reimbursement Agreement.

13. Developer has reserved the right to amend or alter the development plan of the Common Property. This reserved right to amend or alter the development plan of the Common Property applies, without limitation, to Tract D-1. The Neighborhood may be developed as a single phase, or multiple phases, as determined in the sole discretion of the Developer. In addition, Developer may desire to develop lands within the vicinity of the Subdivision for commercial, retail, medical or other purposes.

14. The foregoing statements are only summary in nature and shall not be deemed to supersede or modify the provisions of the Declaration, or any lot sales contract between Buyer and Developer.

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EXHIBIT D
MAINTENANCE PROGRAM

A maintenance program has been established for the operation and care of the Common Areas. In conjunction with the Declaration, the following is a schedule for the inspection and maintenance of all lands and streets under the purview of the Association.

- Monthly:** Grounds and landscaping maintenance for the Common Areas. This maintenance will include, but not be limited to, the maintenance of any recreational facility elements, the walks around the recreational facility elements, signage, entrance way, lakes and overall landscaping and irrigation.
- Quarterly:** Cleaning and maintenance of all stormwater retention areas in accordance with applicable governmental guidelines and requirements.

On a consistent and at least monthly basis, the streets, sidewalks, and gates will be inspected by the Association for disrepair and need of maintenance.

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Mailing Address:
8210 Lakewood Ranch Boulevard
Bradenton, FL 34202

STATE OF Florida
COUNTY OF Manatee

The foregoing instrument was subscribed and sworn to before me this 26th day of December,
2007, by Datrick K Neal, as _____
of Wilmington Land Company, a Florida corporation
 who is personally known to me
_____ who produced _____ as
identification, and who acknowledged before me that he/she executed the same freely and voluntarily for
the purposes therein expressed under authority duly vested in him/her by said corporation.

My Commission Expires:

Priscilla G Heim
Signature PRISCILLA G. HEIM

Printed Name
NOTARY PUBLIC

