

Prepared by and Return to:  
Leland W. Wilson  
Association Legal Services  
12600 World Plaza Ln # 63  
Fort Myers, FL 33907

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**CERTIFICATE OF AMENDMENT TO THE DECLARATION OF**  
**VILLAS AT KINGS GATE ASSOCIATION, INC.**

WHEREAS, this Amendment is made on 7th day of December, 2023 to the Declaration of Covenants, Conditions and Restrictions of VILLAS AT KINGS GATE ASSOCIATION, INC., (the "Declarations"). The original Declaration was recorded at Official Records Book 3431, Page 1064 et seq., of the Public Records of Charlotte County, Florida.

WHEREAS, the Amendment to the Declaration of Covenants, Conditions and Restrictions, is recorded as an exhibit hereto; and

WHEREAS, at a duly called special meeting of VILLAS AT KINGS GATE ASSOCIATION on the 11<sup>th</sup> day of January, 2024 at which a quorum was present, the members approved the amendments to the Declaration of Covenants and Restrictions hereinafter set forth.

NOW, THEREFORE, the undersigned hereby certify that the following Amendment to the Declaration of Covenants and Restrictions, is a true and corrected copy of the amendment as amended by the membership.

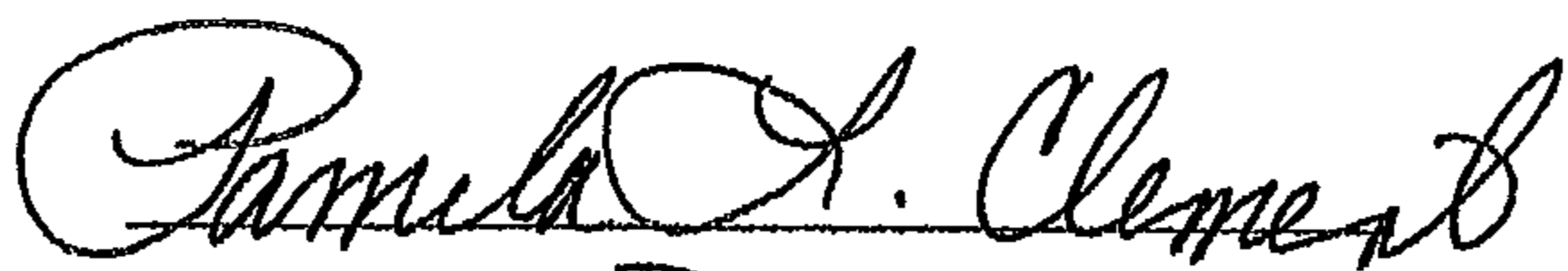
SEE ATTACHED

WITNESS my signature hereto this 16<sup>th</sup> day of January, 2024

VILLAS AT KINGS GATE ASSOCIATION

By: 

John Spradlin  
(President)



Witness Name: Pamela L. Clement



Witness Name: DAVID F. CAIN

Prepared by and return to:  
 Leland Wilson, Esq  
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# **AMENDMENT TO THE DECLARATION OF VILLAS AT KINGS GATE ASSOCIATION, INC.**

THIS AMENDMENT TO THE AMENDED AND RESTATED DECLARATION OF VILLAS AT KINGS GATE ASSOCIATION, INC., ("Amendment") is made this 16<sup>th</sup> day of January, 2024, by Villas at Kings Gate Association, Inc., a Florida non-profit corporation.

## **RECITALS**

**WHEREAS**, the Declaration for Villas at Kings Gate Association, Inc., was recorded on November, 6th, 2009 in the Official Records of Charlotte County, Florida at O.R. Book 3431, Pages 1064, *et seq.* (the "Declaration").

**WHEREAS**, at a duly called meeting of Villas at Kings Gate Association, Inc., Florida not-for-profit corporation on the 11<sup>th</sup> day of January, 2024 at which a quorum was present, the majority of both the Members and Directors approved the amendments to the Amended Declaration and Bylaws hereinafter set forth.

**WHEREAS**, the Board has adopted this Amendment in accordance with the requirements of its Declaration and intends that the Declaration and all amendments hereto, including but not limited all amendments and restatements identified in these recitals, shall be further amended by this instrument.

**NOW THEREFORE**, it is declared that the Amendment shall be and is as follows:

### **1. DECLARATION, ARTICLE 4 is hereby renumbered and amended as follows:**

~~4.5.~~ **4.4. Establishment of Liens to Secure Payment.** Any and all assessments and charges levied by the Association, together with interest at the highest rate allowed by law, and other costs and collection (including, but not limited to attorney's fees) are hereby declared to be a continuing lien upon the Lot and Living Unit against which each such assessment or charge is made. The lien relates back to the date of recording this Declaration, and is superior to any Homestead rights any owner may acquire. No owner may exempt himself from personal liability, or release the Lot owned by him from the liens and charges hereof by waiving the use and enjoyment of the Common Areas, or by abandoning the Villa. The lien is perfected by recording a Claim of Lien in the public Records of the county, setting forth the amount and due date of each unpaid assessment or charge. To be valid the Claim of Lien must be signed by an officer or authorized agent of the Association, and must contain the legal description of the lot. A recorded Claim of Lien secures payment of all assessments or charges due at the time of recording, as well as assessments or charges coming due subsequently, including all interest, late payments fees, attorney's fees and costs incident to the collection process, until the claim is satisfied or a final judgment of foreclosure obtained, Upon full payment of all sums secured by the Claim of Lien, the party making payment is entitled to a satisfaction.

~~4.6.~~ **4.5. Priority of Lien: Non-Liability of certain Acquires of Title.**

Except as may be otherwise expressly provided herein or by law, the Association's lien for unpaid assessments shall be subordinate and inferior all mortgages or other liens regardless of when recorded. A lease of a Villa shall be subordinate and inferior to the Association's lien, regardless of when the lease was executed. Exception: regardless of the priority of the lien, anyone who acquires title to a lot and Living Unit by foreclosure, or deed in lieu of foreclosure, of an institutional first mortgage (the "acquirer"), and anyone claiming by, through or under the acquirer, shall not be liable to pay any assessments or charges that came due before the acquirers acquisition of title, other than those assessments which came due during the one hundred eighty (180) days immediately preceding the date of acquisition of title by the acquirer. Any unpaid assessments or charges which cannot be collected by reason of this exception shall be treated as common expenses, divided equally among, payable by, and assessed against, all Lots including the Lot as to which the foreclosure (or conveyance in lieu of foreclosure) took place.

**~~4.7:~~ 4.6. Collection of Assessments.** If the owner of any Villa fails to pay any charge or assessment, or installment thereof, within ten (10) Days after the due date, the Association shall have any or all of the following remedies, to the extent permitted by law, which remedies are cumulative and are not in lieu of, but are in addition to, all other remedies available to the Association:

(A) To charge interest on the unpaid amount, from the date payment is due until paid, at the highest rate allowed by law, as well as to impose a late payment fee of up to five percent (5%) of the delinquent amount. This fee shall not be considered a "fine" as provided for in Section 12.3 below, and the procedural requirements for levying fines shall not apply to the imposition of late payment fees.

(B) To accelerate the due date for any and all remaining unpaid installments of the annual assessment against the owner's Villa for fiscal year.

(C) To file an action in equity to foreclose its lien. Unless otherwise required by law, the lien may be foreclosed by an action in the name of the Association in the manner as provided in Section ~~718.116~~ 720.308 of the Florida Statutes ~~Condominium Act~~, as it may be amended from time to time, for the foreclosure of liens ~~on condominium parcels for unpaid condominium Assessments.~~

(D) To bring an action at law for a money judgment against the owner, without waiving any lien foreclosure rights. The Association may refuse to accept any tendered payment that bears a restrictive endorsement, and such will be the equivalent of no payment. Payment by check is not deemed received until the check has cleared.

**~~4.8:~~ 4.7. Estoppel Information.** The Association shall, within fifteen (15) days after receiving a written request for same, certify to any owner, prospective purchaser of a Villa, or mortgagee in writing (sometimes referred to as an "estoppel letter signed by an officer of the Association, setting forth whether all assessments and other sums due the Association have been paid. Such certificate may be relied upon by all interested persons except the Villa owner.

**~~4.9:~~ 4.8. Termination of the Association.** If the Association no longer exists for any reason, and if no other Neighborhood Association has assumed its duties and functions, the Master Association shall have the power to perform all functions of the Association and shall be authorized to assess all owners the cost for such services.

2. **DECLARATION, ARTICLE 7.2 (b) (I) (iv), is hereby amended as follows:**

~~(iv) clean, repair and/or replacement of the roofs (including shingles and roof decking, but no roof trusses) of dwellings and garages; Aside from roof replacement at the end of their normal, useful life, the Association is not responsible for any repairs or maintenance to the roofs or apparatus installed on the roofs whatsoever. Rather, repair and maintenance of the roof and apparatus installed on the roof is the sole responsibility of the Owner(s);~~

3. **DECLARATION, ARTICLE 7.2 (b) (I) (v), is hereby amended as follows:**

~~(v) pressure cleaning of front sidewalks, exterior front steps, roofs, and the exterior walls of all dwellings and garages;~~

4. **DECLARATION, ARTICLE 7.2 (b) (I) (xi), is hereby amended as follows:**

~~(xi) repair and replacement of any fixtures or furnishings originally placed or installed by the Declarant on any recreational amenity situated in the common area, if any;~~

The Association shall not be responsible for any maintenance or repairs to any glass surfaces, any screening, anything contained within any dwelling, garage, or courtyard, or any landscaping improvements, or modifications added or made to any Lot after the conveyance of the Lot by the Declarant;

All other portions of the Lots (and the improvements located thereon) shall be the responsibility of the respective Owners, including, without limitation, maintenance, repair and replacement, as necessary, of all pipes, lines, wires, conduits, or other apparatus which serve only the Lot, whether located within or outside the Lot's boundaries (including all utility lines and courtyard drain and associated pipes serving only the Lot) and all landscaping located in the rear lot.

~~Once the Certificate of Occupancy ("CO") or a temporary Certificate of Occupancy is issued for any Unit within a Building, the Association shall then be responsible for obtaining and maintaining insurance on the entire Building in accordance with the coverage set forth in Article 9;~~

5. **DECLARATION, ARTICLE 8, is hereby deleted in its entirety and rewritten as follows:**

**8. PARTY WALLS.**

**8.1.** Any wall which is built as part of the original construction of any Villa subject to this Declaration and placed on the dividing line between adjoining Villas and Lots shall constitute a Party Wall.

**8.1.1. Cost of Repair.** The cost of reasonable repair and Maintenance of a Party Wall shall be shared equally by the Owners who share the Party Wall, except in the case of negligence or willful misconduct.

**8.1.2. Destruction by Casualty.** If a Party Wall is destroyed or damaged by Casualty, any Owner who uses the Party Wall may restore it, and if the other Owner thereafter makes use of the Party Wall, he shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owner to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts of omissions.

**8.1.3. Binding Arbitration.** Any dispute concerning a Party Wall shall be submitted to binding arbitration before being the basis for a lawsuit. Each party shall choose



one arbitrator, and those arbitrators shall choose one additional arbitrator. The decision of a majority of arbitrators shall bind the parties. The cost of the arbitration shall be shared equally by the parties.

**8.2. Repair and Replacement of Walls.** In the event of damage or destruction of any Party Wall from any cause whatsoever, other than the negligence or willful misconduct of an Owner or their Invitees, the Owners of Villas sharing such wall shall, at their joint expense and theirs only, repair and rebuild said wall(s) and each such Owner shall have the right to full use as herein contained of said wall(s) so repaired or rebuilt. In the event it shall become necessary or desirable to perform Maintenance upon the whole or any part of the common walls, such expense shall be shared equally by the Owners of the adjoining walls. Whenever any such wall or any part thereof shall be rebuilt, it shall be erected or repaired in the same manner and at the same location where it was initially constructed and shall be of the same size and of the same or similar materials and of like quality. Should such Maintenance, repair or construction be required to be done solely by reason of the negligence or the willful misconduct of any one or more but less than all of the Villa Owners in the subject building, any expense incidental thereto shall be borne solely by such wrongdoer or wrongdoers. If any Owner shall refuse to pay his or her share of such cost to repair the damage or replace the destroyed common walls, for any cause whatsoever, either all or part thereof, as the case may be, any other remaining Owners may have such wall repaired or reconstructed and shall be entitled to recover the cost of same from the Owner so failing to pay in an amount equal to such defaulting Owner's share of the replacement cost.

**8.3. Alterations to Common Facilities.** The Owner of any Unit sharing a Party Wall with an adjoining Villa shall not possess the right to cut windows, skylights, or other openings in the Party Wall nor shall any alterations, additions or structural changes in the Party Wall be made unless approved by the Association and all mortgagees having a lien on the Villas affected by the change. Reciprocal easements are hereby granted and reserved on each adjacent Villa for the Party Wall and within said Party Wall for the maintenance of any waterline, sewer lines, electrical conduit, wires, TV cables, air conditioning ducts, conduits, plumbing or wiring or other utilities or similar apparatus. Nothing shall be attached to or within said wall which may interfere with the rights of the adjacent owner.

**8.4. Covenant Running with the Land.** Each Party Wall to be constructed on the real property and is to be and remain a Party Wall for the perpetual use and benefit of the respective Owners thereof, and this condition shall be construed to be Covenant Running with the Land, and the conveyance by the Association to such owner is subject to the conditions set forth in this Declaration.

6. **DECLARATION, ARTICLE 9, is hereby deleted in its entirety and rewritten as follows:**

**9. INSURANCE OF VILLAS, BUILDING AND OTHER LOT IMPROVEMENTS.**

**9.1. By the Unit Owner.** Each owner of a Lot shall obtain insurance coverage through an HO3 policy upon the Lot insuring the dwelling unit located thereon in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs. Each unit owner is responsible for obtaining and maintaining owners insurance policy insuring his own unit, and personal property therein; all floor, wall and ceiling coverings; all built-in cabinets, appliances, water heaters, air conditioning and heating equipment, and electrical fixtures that are located within the unit and required to be repaired or replaced by the owner; and all alterations, additions and improvements made to the unit or the common elements by the owner or his predecessors in title. Each unit owner is required to carry homeowner's insurance, with endorsements for leakage, seepage and wind-driven rain, additions and alterations or recognize that they bear financial responsibility for any damage to his property or liability to others that would otherwise be covered by such insurance.

**(A) Duty to Reconstruct.** If any Villa or other improvements located on any Lot and Villa are destroyed or damaged as a result of fire, windstorm, flood, tornado, hurricane or other casualty, the owner of such improvements shall cause repair or replacement to be commenced within (90) days from the date that such damage or destruction occurred, and to complete the repair or replacement within (9) months thereafter. All such repairs or replacements must restore the improvements to substantially their original character, design and condition, shall utilize and conform with the original foundation and appearance of the original improvements except as otherwise approved by the Board of Directors.

**(B) Failure to Reconstruct.** If the owner of any parcel and Villas fails to commence or complete construction to repair or replace any damaged or destroyed improvements within the time periods provided in 9.1A above, the Association shall give written notice to the owner of his default. If after thirty (30) days the owner has not made satisfactory arrangements to meet his obligations, the Association shall be deemed to have been granted the right by the owner's attorney-in-fact, to commence and/or complete the repairs sufficient to substantially restore the improvements to their original condition, according to the plans and specifications of the original improvements. If the Association exercises the rights afforded to it by this section, which shall be in the sole discretion of the Board of Directors, the owner of the parcel and Villa shall be deemed to have assigned to the Association any right he may have to insurance proceeds that may be available because of the damage or destruction of the improvements. The Association shall have the right to recover from any owner any costs not paid by insurance and shall have a lien on the parcel to secure payment.

**9.2. Association Insurance; Required Coverage.** The Association may purchase such insurance as may be necessary to protect the Association and the owners.

**9.2.1. Statutory Fidelity Bond.** The Association shall obtain and maintain adequate fidelity bonding in the minimum principal sum set forth in Chapter 720, for each person (whether or not a Director) who controls or disburses Association funds, and the President, Secretary, and Treasurer. The Association shall bear the cost of any such bonding of Directors and Officers.

**9.3. Optional Coverage.** The Association may purchase and carry other such insurance coverage as the Board of Directors may determine to be in the best interest of the Association and unit owners. Some of the more common options include, but are not limited to:

- (A) Flood Insurance.**
- (B) Broad For Comprehensive General Liability Endorsement.**
- (C) Directors and Officers Liability.**
- (D) Medical Payments.**
- (E) Leakage, seepage, and wind-driven rain.**
- (F) Endorsement for loss by operation of local ordinance.**

**9.4. Description of Coverage.** A detailed summary of the coverages included in the Villa Association Insurance policies, and copies of the Villa Association Insurance policies shall be available for inspection by unit owners or their authorized representatives upon request.

**9.5. Waiver of Subrogation.** If available and where applicable, the Board of Directors shall

endeavor to obtain insurance policies which provide that the insurer waives its right to subrogation as to any claim against the unit owners, or their respective servants, agents, or guests, except for any claim based upon gross negligence evidencing reckless, willful, or wanton disregard for life or property.

**9.6. Insurance proceeds.** All insurance policies purchased by the Association shall be for the benefit of the Association. The duty of the Association shall be to receive such proceeds as are paid, and to hold the same in trust, and disburse them for the purpose stated herein and for the benefit of the unit owners.

**7. DECLARATION, ARTICLE 10, is hereby deleted in its entirety and amended as follows:**

**10. REPAIR OR RECONSTRUCTION AFTER CASUALTY.** If any part of any Building or Lot improvements which are covered by the Association's insurance policy is damaged by casualty, whether and how it shall be reconstructed or repaired shall be determined by Kings Gate Homeowners' Association, the Master Association.

**8. CONFLICT OF PROVISIONS.** Except as modified and amended by the terms hereof, the Declaration shall remain in full force and effect as if fully restated herein.

IN WITNESS WHEREOF, Declarant has made and executed this Amendment to Declaration this 16<sup>th</sup> day of January, 2024

**VILLAS AT KINGS GATE ASSOCIATION, INC.**

Pamela L. Clement TITLE: Vice President  
Signature of 1st witness

Pamela L. Clement DATE: \_\_\_\_\_  
Printed name of 1st witness

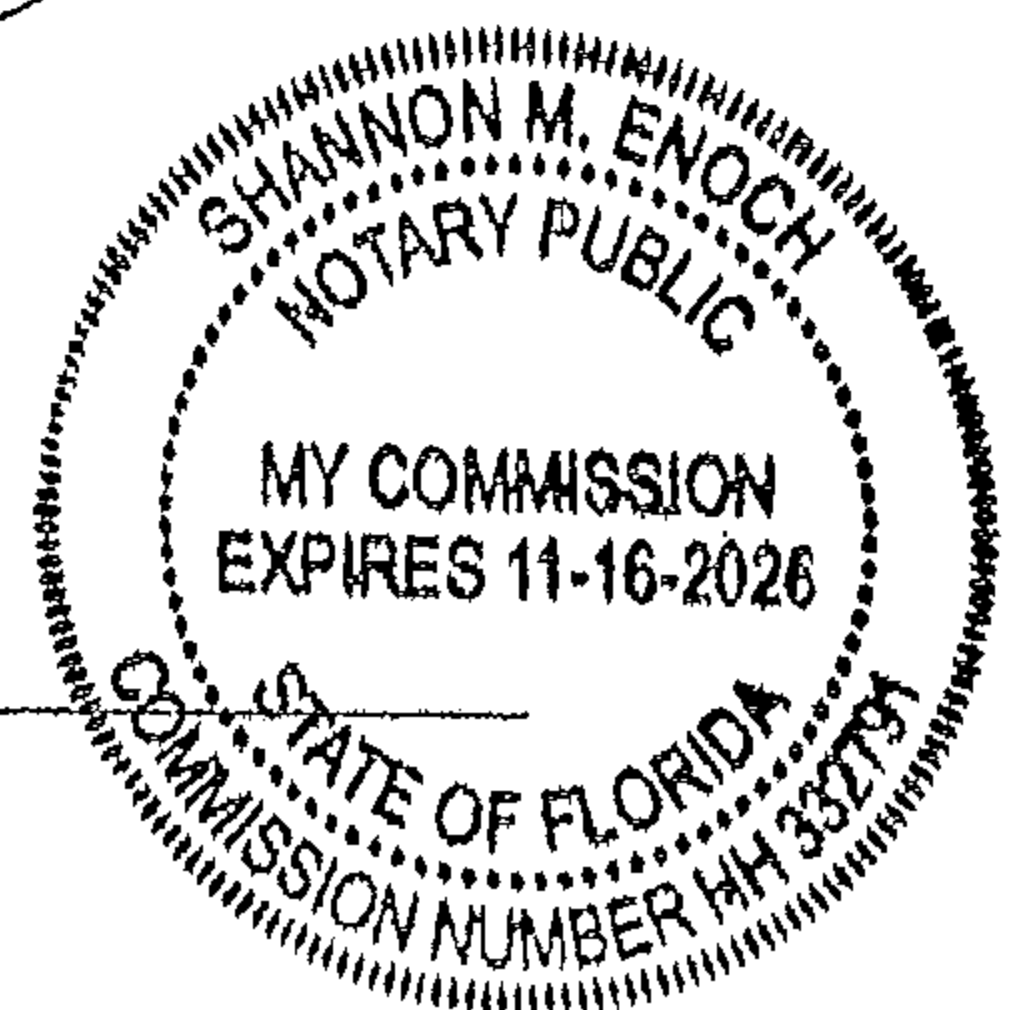
David F. Cain TITLE: VICE PRESIDENT  
Signature of 2nd witness

DAVID F. CAIN DATE: \_\_\_\_\_  
Printed Name of 2nd witness

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this on this 16<sup>th</sup> day of JANUARY, 2024, by Talyn Spradlin as President of Villas at Kings Gate Association, Inc., who is personally known to me or has produced \_\_\_\_\_ as identification.

[Notary Seal]

[Signature]  
Notary Public



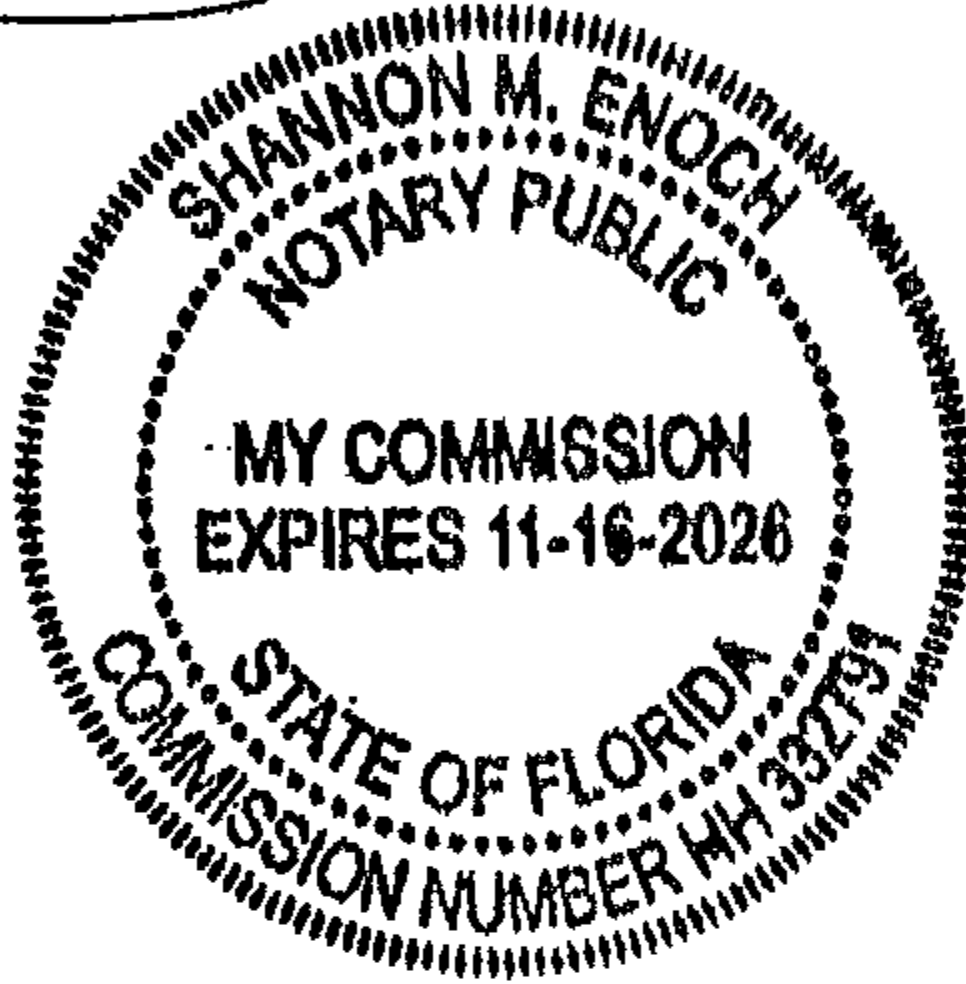
STATE OF FLORIDA )

) SS:

COUNTY OF CHARLOTTE )

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 16<sup>th</sup> day of JANUARY, 2024 by Tina Spradlin, President of VILLAS AT KINGS GATE ASSOCIATION, INC., a Florida corporation, on behalf of the corporation. He/she is personally known to me or has produced \_\_\_\_\_ as identification.

Seal:



Shannon Enoch  
Printed Name of Notary Public  
S Enoch

(Signature of Notary Public)

Attest:

Pamela L. Clement  
Pamela L. Clement  
(Vice President or Secretary)

David F. Cain

Witness Name: DAVID F CAIN

Naoma Bush

Witness Name: Naoma Bush