

THIS INSTRUMENT PREPARED BY:  
LEONARD LUBART, ESQUIRE  
GREENSPOON MARDER LLP  
200 East Broward Boulevard, Suite 1800  
Fort Lauderdale, Florida 33301

**THIRD AMENDMENT TO DECLARATION OF CONDOMINIUM  
FOR  
THE BERKSHIRE, A CONDOMINIUM**

**WHEREAS**, the Declaration of Condominium for The Berkshire, a Condominium, was recorded on March 6, 1980, in Official Records Book 3244, at Page 1367, as amended by First Amendment thereto recorded in Official Records Book 24919, at Page 1167, and a second Amendment thereto recorded in Official Records Book 29476, at Page 393, all as recorded in the Public Records of Palm Beach County, Florida (collectively, the "Declaration"); and,

**WHEREAS**, Article XI of the Declaration provides that the Declaration may be amended by the affirmative vote of voting members casting not less than fifty-one percent (51%) of the total vote of the members of the Association; and,

**WHEREAS**, Article III, Section 5 of the By-Laws provides that whenever the vote of members at a meeting is required or permitted by any provision of the By-Laws to be taken in connection with any action of the Association, the meeting and vote of members may be dispensed with if not less than a majority of the members who would have been entitled to vote upon the action if such meeting were held, shall consent in writing to such action being taken; however, notice of such action shall be given to all members, unless all members approve such action; and,

**WHEREAS**, the requisite approvals of the members of the Association have been obtained and proper notice has been given to all Unit Owners of the meeting at which this Amendment was considered and voted upon.

**WHEREAS**, due to the difficulty of obtaining insurance at a reasonable cost, the Association desires to amend the Declaration to allow the Board of Directors to obtain casualty insurance for the timeshare property (the "Property") less than the maximum insurable replacement value to the greatest extent permitted by Florida law.

**NOW, THEREFORE**, the Declaration is amended by adding the following thereto:

1. Notwithstanding any provision contained in this Declaration to the contrary, the Association shall use due diligence to obtain adequate casualty insurance as a common expense of the timeshare plan to protect the Property against all reasonably foreseeable perils, in such covered amounts and subject to such reasonable exclusions and reasonable deductibles as are consistent with the provisions of this section.

2. In making the determination as to whether the insurance obtained pursuant to subsection (1) is adequate, the Board of Directors shall take into account the following factors, among others as may be applicable:

- (a) Available insurance coverages and related premiums in the marketplace.
- (b) Amounts of any related deductibles, types of exclusions, and coverage limitations; provided that, for purposes of this paragraph, a deductible of 5 percent or less shall be deemed to be reasonable per se.
- (c) The probable maximum loss relating to the insured Property during the policy term.
- (d) The extent to which a given peril is insurable under commercially reasonable terms.

**ELECTRONICALLY RECORDED**

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**WHEREAS**, Article XI of the Declaration provides that the Declaration may be amended by the affirmative vote of voting members casting not less than fifty-one percent (51%) of the total vote of the members of the Association; and,

**WHEREAS**, Article III, Section 5 of the By-Laws provides that whenever the vote of members at a meeting is required or permitted by any provision of the By-Laws to be taken in connection with any action of the Association, the meeting and vote of members may be dispensed with if not less than a majority of the members who would have been entitled to vote upon the action if such meeting were held, shall consent in writing to such action being taken; however, notice of such action shall be given to all members, unless all members approve such action; and,

**WHEREAS**, the requisite approvals of the members of the Association have been obtained and proper notice has been given to all Unit Owners of the meeting at which this Amendment was considered and voted upon.

**WHEREAS**, due to the difficulty of obtaining insurance at a reasonable cost, the Association desires to amend the Declaration to allow the Board of Directors to obtain casualty insurance for the timeshare property (the "Property") less than the maximum insurable replacement value to the greatest extent permitted by Florida law.

**NOW, THEREFORE**, the Declaration is amended by adding the following thereto:

1. Notwithstanding any provision contained in this Declaration to the contrary, the Association shall use due diligence to obtain adequate casualty insurance as a common expense of the timeshare plan to protect the Property against all reasonably foreseeable perils, in such covered amounts and subject to such reasonable exclusions and reasonable deductibles as are consistent with the provisions of this section.

2. In making the determination as to whether the insurance obtained pursuant to subsection (1) is adequate, the Board of Directors shall take into account the following factors, among others as may be applicable:

- (a) Available insurance coverages and related premiums in the marketplace.
- (b) Amounts of any related deductibles, types of exclusions, and coverage limitations;
- (c) The probable maximum loss relating to the insured Property during the policy term.
- (d) The extent to which a given peril is insurable under commercially reasonable terms.

provided that, for purposes of this paragraph, a deductible of 5 percent or less shall be deemed to be reasonable per se.

- (e) Amounts of any deferred maintenance or replacement reserves on hand.
- (f) Geography and any special risks associated with the location of the Property.
- (g) The age and type of construction of the Property.

3. Without limitation, the Board shall have the authority to provide for an insurance reserve in the event that the Board insures the Property for less than full replacement value or with a deductible.

4. This Amendment is intended to give the Board of Directors the greatest flexibility in obtaining insurance as is permitted by law. To the extent that the law may change after the effective date of this Amendment that provides the Board with greater flexibility, such provisions shall be applicable to the Declaration.

5. Notwithstanding any provision contained in the Declaration to the contrary, the Board of Directors is authorized to apply any existing reserves for deferred maintenance and capital expenditures toward payment of insurance deductibles or the repair or replacement of the Property after a casualty without regard to the purposes for which such reserves were originally established.

6. A copy of each policy of insurance in effect shall be made available for reasonable inspection by purchasers and their authorized agents.


7. In the event of any conflict or inconsistency between this Amendment and the Declaration, the terms of this Amendment shall prevail.


8. Except as hereinabove amended, all of the other terms and provisions of the Declaration shall remain in full force and effect.


**IN WITNESS WHEREOF**, THE BERKSHIRE, INC., a Florida not-for-profit corporation, has caused this Third Amendment to the Declaration of Condominium to be duly executed this 20 day of February 2024.

Signed, Sealed and Delivered  
in the Presence of:

THE BERKSHIRE, INC., a Florida non-profit corporation

  
Signature  
Print Name: Roberto Rocco  
Address: 25 Homestead Rd. N Ste 41  
Lehigh Acres FL 33936

  
Signature  
Print Name: Arlene Esparza  
Address: 25 Homestead Rd. N Ste 41  
Lehigh Acres FL 33936

BY:   
Name: RICHARD D. FAHAY  
Title: President

Signed, Sealed and Delivered  
in the Presence of:

THE BERKSHIRE, INC., a Florida non-profit corporation

[Signature]  
Signature  
Print Name: Robyn Rocco  
Address: 25 Homestead Rd.  
Lelyth FL 33936

BY: [Signature]  
Name: Mark Goodman  
Title: Secretary

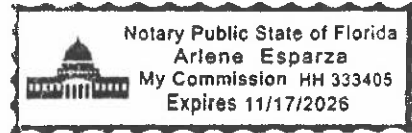
[Signature]  
Signature  
Print Name: Arlene Esparza  
Address: 25 Homestead Rd. N. 15E. 41  
Lelyth Beach, FL 33936

STATE OF FLORIDA )  
 ) SS.  
COUNTY OF PALM BEACH )

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization this 30 day of February, 2024, by Richard Fahay, as President of THE BERKSHIRE, INC., a Florida not-for-profit corporation, on behalf of the corporation, who is personally known to me or has produced \_\_\_\_\_ as identification.

[Signature]  
Print Name: Arlene Esparza  
Notary Public, State of Florida  
Serial Number, if any

My commission expires:



STATE OF FLORIDA )  
 ) SS.  
COUNTY OF PALM BEACH )

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization this 30 day of February, 2024, by Mark Goodman, as Secretary of THE BERKSHIRE, INC., a Florida not-for-profit corporation, on behalf of the corporation, who is personally known to me or has produced \_\_\_\_\_ as identification.

[Signature]  
Print Name: Arlene Esparza  
Notary Public, State of Florida  
Serial Number, if any

My commission expires:

