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RECORD & RETURN TO:  
HODGES BLVD DEV GROUP, INC.  
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**DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS  
FOR  
GLEN KERNAN**

**THIS DECLARATION** is made this 27th day of January, 1997, by **HODGES BLVD. DEVELOPMENT GROUP, INC.**, a Florida corporation, hereinafter referred to as "Developer", who declares:

**RECITALS**

A. Developer is the owner of certain land located in Duval County, Florida, being all of that real property platted as *Glen Kernan Golf and Country Club Unit One* in Plat Book 51, pages 2 through 2G of the current public records of Duval County, Florida, which is commonly referred to as Glen Kernan, as may be added to from time to time (the "Property"). Developer desires to provide for the orderly development of the Property to assure high quality standards for the construction on and improvement of the Property for the benefit of the residents thereof.

B. Developer intends to develop the Property for the purpose of constructing single family dwellings, which dwellings will share certain Common Property (as hereinafter defined) and which will be occupied and maintained as a residential development for the mutual and common benefit of all Owners (as hereinafter defined) and occupants thereof, who shall own and occupy the Property subject to the provisions of this Declaration and all other rules and regulations applicable to the Property and/or any portion thereof.

C. To preserve, enhance and maintain the Property and the Improvements (as hereinafter defined) thereon, Developer desires to subject the Property to the covenants, conditions, restrictions, easements, charges and liens of this Declaration, each and all of which are for the benefit of the Property and each Owner of a portion thereof.

D. To provide for the effective management of the Property, Developer has created Glen Kernan Homeowners Association, Inc., a Florida not-for-profit corporation, whose membership shall include all Owners of all or any part of the Property and which shall have the power and duty of administering and enforcing the protective covenants, conditions, restrictions, easements, charges and liens hereinafter described.

E. Developer may develop certain recreational facilities including, without limitation, a swimming pool and tennis courts (jointly referred to herein as the "Recreation Facilities") on land within, adjacent or proximate to the Property, which facilities will be available for use by the Owners.

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F. Developer may develop a golf course and club house on land adjacent or proximate to the Property (hereinafter referred to as the "Glen Kernan Golf & Country Club" or the "Golf Club"), which will be available for use by persons, including Owners, who from time to time become members of the Glen Kernan Golf & Country Club. The Recreation Facilities and the Golf Club, if constructed, will be owned by the Developer, but may be transferred as hereinafter set forth and shall be subject to such use restrictions as the owner(s) of the Recreation Facilities and/or Golf Club from time to time may determine.

## DECLARATION

**NOW, THEREFORE,** Developer declares that the Property shall be held, sold, occupied, and conveyed subject to the following covenants, conditions, restrictions, easements, and limitations, which shall run with the title to the Property and shall be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, legal representatives, successors and assigns, and shall inure to the benefit of each Owner and the Developer.

### I. DEFINITIONS

A. Defined Terms. The definitions of the following terms shall apply wherever capitalized in this Declaration:

1. "Additional Property" means any real property which is adjacent or proximate to the Property, which may be annexed to the Property by Developer by recording a Supplemental Declaration (as hereinafter defined) in the public records of Duval County, subjecting such Additional Property to this Declaration. Following any such annexation, the Additional Property shall, for all purposes herein, be deemed to be included within the definition of the term "Property."
2. "ARB" means the Architectural Review Board of the Association (as hereinafter defined).
3. "Articles" means the Articles of Incorporation for the Association, as amended from time to time, a copy of which is attached hereto and made a part hereof as *Exhibit "A"*.
4. "Assessment" means all types of charges to which a Lot (as hereinafter defined) is subject, including, without limitation, Annual Assessments, Special Assessments, Emergency Assessments and Lot Assessments (all as hereinafter defined).
5. "Assessment Charge" means all Assessments currently owed by each Owner (as hereinafter defined), together with any late fees, interest, and costs of collection (including reasonable attorneys' fees), where applicable.

6. "Association" means Glen Kernan Homeowners' Association, Inc., a Florida not-for-profit corporation, its successors and assigns.
7. "Board of Directors" means the Board of Directors of the Association.
8. "Bylaws" means the Bylaws of the Association, as amended from time to time, a copy of which is attached hereto and made a part hereof as *Exhibit "B"*.
9. "Common Property" means all of the Property, except the Lots, together with any fixtures and Improvements (as hereinafter defined) thereon and all personal property intended for the common use and enjoyment of the Owners, including all portions of the Stormwater Management System (as hereinafter defined) and drainage easements reserved herein, which are located within the Property. The Common Property shall specifically include, without limitation, the Recreation Facilities, rights-of-way of any roads, signs, fencing, landscaped entry features (including guardhouse, entry sign, lighting, irrigation, and landscaping) and landscaping not located within a Lot. Unless expressly stated herein, on the Plat (as hereinafter defined) or by separate instrument executed by Developer or the Association, no portion of the Common Property is dedicated for use by the general public.
10. "County" means Duval County, Florida.
11. "Declaration" means this Declaration of Covenants, Conditions, Restrictions and Easements for Glen Kernan, as hereinafter amended and/or supplemented of record, from time to time.
12. "Developer" means Hodges Blvd. Development Group, Inc., a Florida corporation, its successors and assigns who acquire more than one undeveloped Lot or any portion of the Property from Developer for purposes of development and sale to an Owner, provided the rights and obligations of Developer hereunder are expressly assigned to and assumed by such successor or assign by written instrument recorded in the County public records. There shall be only one such successor or assignee of the rights and obligations of the Developer hereunder at any given time; however, Developer may partially assign its rights and obligations hereunder in connection with a conveyance of the Property. In the event of a partial assignment, the assignee shall not be deemed to be the Developer, but may exercise such rights of Developer specifically assigned to it. Any such partial assignment may be made on a nonexclusive basis. In addition, in the event that any person or entity obtains title to all of the Property owned by Developer as a result of foreclosure or deed in lieu thereof, such person or entity may elect to become the Developer by written election recorded in the public records of the County, and regardless of the exercise of such election, such

person or entity may appoint a successor Developer or assign any rights of Developer to any other party which acquires title to all or any portion of the Property by written appointment recorded in the public records of the County. In any event, no subsequent Developer shall be liable for any actions, omissions or defaults of, or obligations incurred by, any prior Developer, except as the same may be expressly assumed by the subsequent Developer. Reference in this Declaration to Hodges Blvd. Development Group, Inc. as the Developer under this Declaration is not intended and shall not be construed to impose upon Hodges Blvd. Development Group, Inc. any obligations or liabilities for the acts or omissions of third parties who purchase Lots within the Property from Hodges Blvd. Development Group, Inc. and develop and resell the same. Developer may also be an Owner, for so long as Developer shall be the record owner of any Lot.

13. "Improvements" means the Residences (as hereinafter defined), buildings, infrastructure and related improvements (including landscaping) constructed upon or under the Lots and/or the Property.
14. "Lot" means any plot of land intended as a site for a Residence and shown upon any duly recorded subdivision Plat of the Property. References herein to "Lot" shall also include the Residence and all Improvements constructed on a Lot, unless specifically set forth to the contrary. In the event that Developer conveys a Lot, together with all or part of an adjacent Lot or Lots (such combination of Lots being hereinafter referred to as a "Reconfigured Lot") to one Owner who constructs only one single family dwelling unit thereon, such Reconfigured Lot shall be deemed to be a single Lot subject to one Assessment and entitled to one vote, and except as specifically set forth herein, all references to Lots shall include Reconfigured Lots.
15. "Member" means a person entitled to membership in the Association, as provided in this Declaration.
16. "Mortgage" means any bona fide first mortgage encumbering a Lot as security for the repayment of a debt obligation.
17. "Mortgagee" means any bank, savings and loan association, or other recognized institutional lender, any insurer or guarantor of Mortgages and any holder of Mortgages in the secondary market, including Developer, (including, without limitation, the Veteran's Administration, the Federal Housing Administration, the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association), holding a Mortgage now or hereinafter placed upon any Lot.
18. "Owner" means the record owner, whether one or more persons or entities, of the fee simple title to any Lot, including the buyer under a

contract for deed. Owners shall not include those persons or entities having an interest in the Lot merely as security for the payment or repayment of a debt obligation.

19. "Permit(s)" means any and all permits and approvals issued by any federal, state or local governmental agency, department or regulatory body governing or pertaining to the development or use of the Property.
20. "Plat" means the plat of "Glen Kernan Golf and Country Club Unit One", as recorded in Plat Book 51, Pages 2 through 2G of the public records of Duval County, Florida, and all subsequent plats of the Property or portions thereof, as may be amended or replatted from time to time.
21. "Property" means that certain real property described as such in the Recitals above, including the Common Property and such Additional Property as may be added from time to time by recordation of a Supplemental Declaration.
22. "Residence" means any single family residential dwelling constructed or to be constructed on or within any Lot.
23. "Stormwater Management System" means the system located within the Property and the Golf Club, which is designed in accordance with plans prepared by Hill, Boring, Dunn & Associates, initially dated August 1995 (Job No. 9503-434-20), as may be amended from time to time, and permitted, constructed and implemented pursuant to Management and Storage of Surface Waters Permit No. 4-031-0559A-ERP issued by the St. Johns River Water Management District (the "District"), as modified from time to time, to control stormwater discharges which are occasioned by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use, or reuse water to prevent or reduce flooding, overdrainage, environmental degradation and water pollution, or to otherwise affect the quality and quantity of discharge from the Stormwater Management System, as permitted under applicable laws and regulations.
24. "Supplemental Declaration" means an instrument recorded in the County public records which subjects Additional Property to the terms and conditions of this Declaration.

## II. ASSOCIATION

A. Members. Every Owner shall be a mandatory Member of the Association. Membership shall be appurtenant to and may not be separated from title to each Lot. Membership shall be transferred automatically by conveyance of the title to any Lot, whereupon the membership of the previous Owner shall automatically terminate. Persons or entities which have an interest in any Lot merely as security for the performance of an obligation shall not be

Members of the Association, and, in such case, the fee simple Owner of the Lot shall retain the membership in the Association.

B. Voting Rights. The Association shall have two classes of voting Members.

1. Class A. Class A Members shall be all Owners, with the exception of Developer, so long as the Class B Membership exists. Class A Members shall be entitled to one vote for each Lot owned following Turnover (as hereinafter defined). When more than one person holds an interest in any Lot, all such persons shall be Members; however, the vote for such Lot shall be exercised as they shall determine among themselves. In no event shall more than one vote be cast with respect to any Lot. Notwithstanding the foregoing, if title to any Lot is held by a husband and wife, either spouse may cast the vote for such Lot unless and until a written voting authorization is filed with the Association. When title to a Lot is in a corporation, partnership, association, trust, or other entity (with the exception of Developer), such entity shall be subject to the applicable rules and regulations contained in this Declaration, Articles and Bylaws. Provided, however, if an Owner owns a Reconfigured Lot, for so long as such Reconfigured Lot contains only one single family Residence, the Owner thereof shall have only one vote in Association matters. Builders, contractors or others who purchase a Lot for the purpose of constructing Improvements thereon for resale shall be deemed to be Class A Members.
2. Class B. The sole Class B Member shall be Developer. Developer shall be entitled to the sole right to vote in Association matters until the occurrence of the earlier of the following events ("Turnover"):
  - (a) Three (3) months after ninety percent (90%) of the Lots in the Property have been conveyed to Class A Members, other than Developer.
  - (b) Such earlier date as Developer, in its sole discretion, may determine in writing.
3. Board of Director Voting. After Turnover, the Class A Members may vote to elect the majority of the members of the Board of Directors and Developer shall be entitled to vote as a Class A Member for any Lots which it owns, except that Developer may not reacquire control of the Association or elect the majority of the members of the Board of Directors. Developer shall be entitled to elect at least one Board member as long as Developer holds for sale in the ordinary course of business five percent (5%) of the Lots.
4. Action Without a Meeting. Any action allowed or required to be taken hereunder by a vote or assent of the Members may be taken in the

absence of a meeting by obtaining the written approval of the requisite percentage of all votes in the Association. Any action so approved shall have the same effect as though taken at a meeting of the Members. Such approval shall be duly filed in the minute book of the Association.

C. Association Powers. The Association is charged with the duties and vested with the powers set forth in Chapter 617, Florida Statutes, this Declaration, any Supplemental Declaration, the Articles and the Bylaws, all as may be amended from time to time. A Board of Directors and Officers, elected as provided in the Articles and Bylaws, shall conduct the affairs of the Association in accordance with Chapter 617, Florida Statutes, this Declaration, any Supplemental Declaration, the Articles and the Bylaws, all as may be amended from time to time. Except as expressly prohibited by law, the terms of this Declaration, any Supplemental Declaration, and the Articles and Bylaws shall govern in the event of a conflict with Chapter 617, Florida Statutes.

D. Dissolution. The Association may be dissolved with the written consent of seventy-five percent (75%) of the Class A Members and the Class B Member, if any.

### III. MAINTENANCE ASSESSMENTS

A. Annual Assessments. For each Lot within the Property, Developer covenants, and Owner, by acceptance of a deed or other conveyance, agrees to pay Annual Assessments levied by the Association for the improvement, maintenance, and operation of the Common Property, including, without limitation, the maintenance, operation and repair of the Stormwater Management System (including, but not limited to, work within retention areas, drainage structures, and drainage easements), the management and administration of the Association, and the furnishing of services as set forth in this Declaration. As further hereinafter described, the Board of Directors, by majority vote, shall set the Annual Assessments at a level sufficient to meet the Association's obligations, including contingencies and reserves. The Board of Directors shall set the date or dates such Annual Assessments shall become due and may provide for Assessments to be payable annually or in monthly, quarterly or semi-annual installments; provided, however, that upon default in the payment of any one or more installments, the entire balance of such Annual Assessment may be accelerated, at the option of the Board of Directors, and be declared due and payable in full.

B. Special Assessments. In addition to the Annual Assessments, the Association may levy a Special Assessment applicable to that year and to not more than the next four (4) succeeding years for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Property, including fixtures and personal property related thereto, provided any such Special Assessment shall have the approval of a two-thirds ( $\frac{2}{3}$ ) majority vote of the Board of Directors at a regular meeting or a special meeting called for that purpose at which a quorum is present.

C. Emergency Assessments. In addition to the Annual and Special Assessments authorized above, the Association may at any time, by a simple majority vote of the Board of Directors, also levy an Emergency Assessment for the purpose of defraying, in whole or in part, the cost of any extraordinary or emergency matters that affect the Common Property or all

Members of the Association, including, after depletion of any applicable reserves, any unexpected expenditures not provided for by the budget or unanticipated increases in the amounts budgeted. Any Emergency Assessment shall be due and payable at the time and in the manner specified by the Board of Directors.

D. Lot Assessments. In addition to the Annual, Special and Emergency Assessments authorized above, the Board of Directors, by simple majority vote, may from time to time levy a Lot Assessment against a particular Lot and the Owner thereof for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, replacement or removal of a capital improvement upon or serving the specific Lot, including any additional special services to such Lot, the cost of which is not included in the Annual Assessment; or to reimburse the Association for any costs it incurs as a result of the Owner's failure to comply with this Declaration or any damage to the Common Property caused by the Owner of the assessed Lot.

E. Commencement of Annual Assessments.

1. Date of Commencement. The Annual Assessments provided for herein shall commence with respect to each Lot, except Exempt Property (as hereinafter defined), on the date of conveyance of the Lot to an Owner other than Developer. The initial Annual Assessment on any Lot subject to Assessment shall be collected at the time title to such Lot is conveyed to such Owner. During the initial year of ownership, each Owner(s) shall be responsible for his/their pro rata share of the Annual, Special and/or Emergency Assessment(s) charged to each Lot, prorated to the day of closing on a per diem basis.
2. Capital Contribution. In addition, at the closing and transfer of title to each Lot (except Exempt Property) to the first Owner other than Developer, such Owner may be required to contribute working capital to the Association in an amount to be determined by the Association from time to time. These contributions to the Association shall be used for the purpose of defraying the initial and nonrecurring capital expenses of the Association and for providing initial working capital for the Association. Such contribution shall not be considered as a prepayment of Annual Assessments.
3. Nonpayment of Assessments; Remedies of the Association.
  - a. Creation of Lien. The Assessment Charge is a charge and continuing lien upon each Lot subject to this Declaration. The lien provided for in this Section shall be perfected by the filing of a Notice of Lien in the public records of the County, in favor of the Association.
  - b. Owner's Acceptance. The Assessment Charge is also the personal obligation of the person or entity that was the Owner of such Lot at the time when the Assessment was levied and of each



subsequent Owner thereof. Each Owner of a Lot, by acceptance of a deed or other transfer document, whether or not it shall be so expressed in such deed or transfer document, is deemed to covenant and agree to pay to the Association the Assessment established or described in this Article. Each Owner, by his/her acceptance of title to a Lot, expressly vests in the Association the right and power to bring all actions against such Owner personally for the collection of such Assessment Charge as a debt and to enforce the aforesaid by all methods available for the enforcement of such liens, including foreclosures, by an action brought in the name of the Association in a like manner as a mortgage lien on real property. No Owner may waive or otherwise avoid liability for the Assessment Charge by abandonment of his/her Lot.

- c. Late Fees. Interest. Any Assessment Charge not paid within ten (10) days after the due date shall be subject to a late fee, as determined from time to time by the Board of Directors, and may, upon resolution of the Board of Directors, bear interest at a percentage rate, not to exceed the maximum rate permitted under Florida law, determined by said Board of Directors.
  - d. Remedies. The Association may bring an action at law against the Owner(s) personally obligated to pay an Assessment Charge, or may foreclose the lien against the Lot upon which the Assessment Charge is made in the manner provided below. The Association shall have the power to bid for an interest in any Lot at a judicial foreclosure sale and to acquire, hold, lease, mortgage and convey the same. In addition, the Board of Directors, by simple majority vote, shall have the right to assess fines against Owners and to suspend any Owner's voting rights and right to use the Common Property (other than the right to use any roads for ingress and egress to the Lot) for any period during which any Assessment against a Lot that is more than thirty (30) days past due remains unpaid, and for a period not to exceed sixty (60) days for any infraction of any other provision of its rules and regulations or of this Declaration.
4. Subordination of the Lien to Mortgages. The lien of the Assessment Charge shall be inferior and subordinate to the lien of any institutional Mortgagee, but only to the extent of the Mortgage balance outstanding as of the date the notice of an Assessment Charge was first recorded against the Lot, plus interest and reasonable costs of collection accruing thereafter. The sale or transfer of any Lot shall not affect the Assessment Charge; however, the sale or transfer of any Lot pursuant to foreclosure of a Mortgage or deed in lieu thereof shall extinguish the lien of an Assessment Charge as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve the transferee of such Lot

from liability for any Assessments thereafter becoming due or from the lien thereof, nor the Owner responsible for such payments from such Owner's personal liability as provided herein. Mortgagees shall in no event be responsible or liable for the collection of any Assessments. The failure to pay any Assessment Charges shall in no event be deemed to constitute a default under any Mortgage by reason of anything contained in this Declaration, unless otherwise expressly provided in the Mortgage.

5. Budget.

- a. Fiscal Year. The fiscal year of the Association shall consist of the twelve (12) month period commencing on January 1 of each year.
- b. Initial Budget. Developer shall establish the budget for the fiscal year in which a Lot is first conveyed to an Owner other than Developer.
- c. Preparation and Approval of Annual Budget. Commencing December 1st of the year in which a Lot is first conveyed to an Owner other than Developer, and on or before December 1 of each year thereafter, the Board of Directors shall adopt a budget for the coming year containing an estimate of the total amount which it considers necessary to pay the cost of all expenses to be incurred by the Association in carrying out its responsibilities and obligations, including, without limitation, the cost of wages, materials, insurance premiums, services, supplies, and other expenses for the rendering to the Owners of all services required or permitted hereunder. The budget shall also include such reasonable amounts as the Board of Directors considers necessary to provide working capital for the Association and to provide for a general operating reserve and reserves for contingencies and replacements. The budget shall separately set out all fees and charges for recreational amenities, if any. The Board of Directors shall send to each Owner a copy of the budget, in a reasonably itemized form, which sets forth the amount of the Annual Assessments payable by each Owner, on or before December 15 preceding the fiscal year to which the budget applies. The budget shall constitute the basis for determining each Owner's Annual Assessment. The Assessments shall be determined by dividing the amount of the Budget by the number of Lots (excluding Exempt Property) subject to the Declaration.
- d. Reserves. The Association may, in its sole discretion, maintain such reserves as it deems reasonable or necessary for (i) working capital, (ii) contingencies, (iii) replacements and (iv) the performance of such other coordinating or discretionary functions not contrary to the terms of this Declaration which the Board of

Directors may from time to time approve, which reserves shall be collected as part of the Annual Assessment as provided above. The amount and manner of collection of reserves shall be as determined by the Board of Directors, in its sole discretion. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year shall be charged first against such reserves. Except in the event of an emergency, reserves accumulated for one purpose may not be expended for any other purpose unless approved by a vote or written consent of the Members owning a majority of the Lots. If the reserves are inadequate for any reason, including nonpayment of any Owner's Assessment, the Board of Directors may, at any time, levy a Special Assessment in accordance with the provisions of this Article, which may be payable in a lump sum or in installments, as determined by the Board of Directors. In the event there is a balance of reserves at the end of any fiscal year, and the Board of Directors so determines, any excess reserves may be taken into account in establishing the next year's budget and in such manner be applied to defray general expenses incurred by the Association. An Owner shall not be entitled to a refund of reserves remaining at the end of a fiscal year.

- e. Effect of Failure to Prepare or Adopt Budget. The failure or delay of the Board of Directors to prepare or adopt an annual budget or adjusted budget for any fiscal year shall not constitute a waiver or release in any manner of an Owner's obligation to pay such Owner's Annual Assessment, as herein provided, whenever the same shall be determined. In the absence of any annual Association budget or adjusted budget, each Owner shall continue to pay the Annual Assessment at the then existing rate established for the previous fiscal period, in the manner such payment was previously due, until notified otherwise.
  - f. Accounts. Except as otherwise provided herein, all sums collected by the Board of Directors with respect to Assessments may be commingled in a single fund.
6. Exempt Property. The following properties subject to this Declaration shall be exempted from the Assessments, Assessment Charges and liens created herein ("Exempt Property"): (a) all properties dedicated to and accepted by a governmental body, agency or authority, (b) all Common Property and (c) all unimproved Lots or property owned by Developer (including, without limitation, any Lot used or leased by Developer). Developer may, but is not obligated to, assign this exemption right, in whole or in part, to any entity(ies) it may determine, including without limitation, any builder owning Lots solely for the purpose of constructing Residences intended to be sold to ultimate purchasers.

7. Real Estate Taxes. In the event the Common Property is taxed separately from the Lots, the Association shall include such taxes as part of the Annual Assessment. In the event the Common Property is taxed as a component of the value of the Lot owned by each Owner, it shall be the obligation of each Owner to promptly pay such taxes prior to their becoming a lien.
8. Certificate of Payment. The Treasurer of the Association, or the management company authorized by the Board of Directors, upon demand of any Owner liable for an Assessment, shall furnish to such Owner a certificate in writing setting forth whether such Assessment has been paid. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid. A reasonable charge for the services involved in preparing such certificate may be assessed by the Association or management company, as applicable.

#### IV. OWNER'S RIGHTS AND DUTIES

A. Easement of Enjoyment. Subject to the limitations provided elsewhere in this Declaration, every Owner is granted a nonexclusive right and perpetual easement of enjoyment in and to the Common Property, which easement is appurtenant to the title to each Lot, subject to the following:

1. The right of Developer or the Association to take such steps as are reasonably necessary to protect the Common Property against foreclosure.
2. The right of Developer or the Association to sell, convey or transfer the Common Property or any portion thereof to a third party upon a two-thirds ( $\frac{2}{3}$ ) vote of the Board of Directors.
3. The right of Developer or the Association to grant easements and rights-of-way as may be appropriate for the proper development and maintenance of the Property, including, without limitation, Developer's right to reserve easements for itself, its successors and assigns for ingress, egress, maintenance and utilities over the Common Property.
4. The right of Developer or the Association, upon a two-thirds ( $\frac{2}{3}$ ) vote of the Board of Directors, to mortgage any or all of the Common Property for the purpose of improving the Common Property.
5. The limitations or provisions of any permit(s), this Declaration, any Plat of the Property or portions thereof and the Articles and Bylaws of the Association.

6. The right of the Developer or Association to authorize other persons to enter upon or use the Common Property for uses not inconsistent with the Owners' rights therein.
7. The rules and regulations governing the use and enjoyment of the Common Property as may from time to time be adopted by the Developer or Association.
8. All easements and restrictions of record affecting any part of the Common Property.
9. The right of Developer or the Association to limit or restrict use of the Common Property.

B. Delegation of Use. Each Owner may delegate, subject to the provisions of the Articles, Bylaws and this Declaration, his/her right of enjoyment in the Common Property and facilities to his/her family members, tenants, guests, invitees, licensees, domestic servants, agents, employees and/or contract purchasers who occupy the Lot.

C. Damage or Destruction. In the event that any Common Property, facilities or personal property of Developer or the Association is damaged or destroyed as a result of negligence or misuse by an Owner or any of his/her guests, tenants, invitees, licensees, agents, employees, domestic servants, family members or contract purchasers who occupy a Lot, the Association shall repair the damaged area or property in a good and workmanlike manner, in accordance with the original plans and specifications of the area involved, or as the area may have been modified or altered subsequently by the Association. The cost of such repairs shall be the responsibility of that Owner and shall be a Lot Assessment, payable by the responsible Owner immediately upon receipt of a written invoice or statement.

D. Maintenance. Each Owner shall keep all parts of his/her Lot, including the Residence, clean and free of debris and in good order and repair. This obligation shall include, without limitation, repair or replacement of the roof, windows and doors (including glass or screens) and exterior of the Residence. Each Owner shall also maintain any portion of the Property bounded by his/her front Lot line, the continuation of his/her side Lot lines, and to the paved portion of any road adjacent to his/her Lot. If an Owner fails to maintain his/her Lot, Residence or to the adjacent road right-of-way in good order and in a clean and attractive manner, the Association, after ten (10) days written notice to the Owner and with the approval of the majority of the Board of Directors, shall have the right to enter upon such Lot to correct, repair, restore, paint, maintain and/or landscape any part of such Lot or Residence, or to the adjacent portion of a road right-of-way. The cost of such repairs or maintenance shall be the responsibility of that Owner and shall be a Lot Assessment, payable by the responsible Owner immediately upon receipt of a written invoice or statement.

V. COMMON PROPERTY AND EASEMENTSA. Common Property/Roads.

1. Title. Developer shall retain title to Common Property until such time as it has completed any Improvements thereto, or unless Developer sooner conveys such Common Property or any portion thereof to the Association or the Golf Club or dedicates such Common Property to the public by recorded instrument. All remaining Common Property not deeded to the Association shall be deemed conveyed to the Association, without further act or deed by Developer, at such time as Developer no longer owns any Lot. Notwithstanding the foregoing, at such time as Developer no longer owns any Lot, other than as shown on the Plat of the Property, no part of the Common Property may be conveyed in fee, mortgaged, or otherwise encumbered by the Developer or Association to any party (other than the Association, the Golf Club or by dedication to the public), without the written consent or vote of the Class B Member, if any, and seventy five percent (75%) of the Class A Members.
2. Each Owner, his/her successors and assigns, family members, tenants, guests, invitees, licensees, agents, employees, utility personnel, pickup and delivery providers, police and fire protection and other authorities are hereby granted a perpetual, nonexclusive easement for ingress and egress over roads within the Common Property.
3. The Developer and the Association shall have the right, but not the obligation, to deny ingress to any person other than an Owner, Mortgagee or police and fire protection and other public authorities, who, in the sole opinion of Developer or the Association, may create or participate in a disturbance or nuisance on any part of the Property.
4. The Developer and the Association shall have the right, but not the obligation, to control speeding and impose speeding fines to be collected by the Association in the manner provided for Assessments.
5. The Developer and the Association hereby reserve the right to, at any time, dedicate and/or grant easements within any portion of the Common Property, including without limitation the road rights-of-way, for public use and to relocate or close any portion of the Common Property, including such road rights-of-way, without the joinder or consent of any Owner, Member or Mortgagee.
6. Maintenance. It shall be the duty of the Association to manage and maintain the Common Property in a clean, attractive, sanitary and serviceable condition, and in good order and repair, for the benefit of all Owners. The Association's duties shall commence upon the completion of any Improvements upon the Common Property, irrespective of which

entity holds title thereto, and shall include the management, operation, maintenance, repair, servicing, replacement, and renewal of all Improvements, equipment, and tangible personal property installed by Developer as a part of the Common Property. The Association shall keep the Improvements located on the Common Property, including fixtures and personal property of the Association, insured for the maximum insurable replacement value, excluding foundation and excavation costs, as determined by the Board of Directors. The Association shall also maintain all landscaping on the Common Property; provided, however, that neither Developer nor the Association shall be deemed a guarantor of such landscaping. In addition, the Association shall be responsible for the maintenance, operation and repair of the Stormwater Management System, as set forth herein.

**B. Utility Easements.**

1. **Blanket Easement.** Developer reserves for itself, its successors and assigns, a perpetual, nonexclusive blanket easement and right for the benefit of the Property upon, across, over, through and under the Property for ingress, egress, installation, replacement, repair, use and maintenance of all utility and service lines and service systems, public and private, including, but not limited to, water, sewer, drainage, irrigation systems, telephones, electricity, television cable or communication lines and systems, and police powers and services supplied by the local, state and federal governments. This easement shall in no way affect any other recorded easements encumbering the Property. Upon construction of a Residence on a Lot, the blanket easement reserved herein shall be automatically vacated with respect to the portion of the Lot on which the Residence and other approved Improvements are located.
2. **Lot Easements.** Developer reserves for itself, its successors and assigns, and grants to the Association and its designees, a ten foot (10') perpetual, nonexclusive easement over, under, and across the front, side and rear of each Lot for the installation, repair and maintenance of utilities, including without limitation, water, sewer, drainage and irrigation lines.
3. **Cable Easements.** Developer reserves for itself, its successors and assigns, and grants to the Association and its designees, a perpetual, nonexclusive easement and right for the installation, maintenance and supply of radio and television cables over, under and across the rights-of-way and easement areas depicted on any recorded Plat of the Property. If the Association elects to enter into a "bulk rate contract" for cable television, cable television service shall be supplied to each Lot, and each Owner shall be required to pay all costs in connection therewith.

C. Stormwater Management System.

1. Blanket Easement. The plan for the development of the Property includes the construction of the Stormwater Management System, which may include, without limitation, retention lakes, swales, conduits, weirs, pipes, pumps and berms located both within the Property and within the Golf Club. Developer hereby reserves for itself, the Golf Club and their successors and assigns, and grants to the Association and its designees and the Owners, a perpetual, nonexclusive easement over and across all areas of the Stormwater Management System for the drainage of stormwater from and within the Property and the Golf Club.
2. Maintenance Easement. The Association is granted a perpetual, nonexclusive easement for ingress and egress, at all reasonable times and in a reasonable manner, over and across the Stormwater Management System and over any portion of a Lot which is a part of the Stormwater Management System including the portion of a Lot extending twenty feet (20') landward from any water's edge, to operate, maintain and repair the Stormwater Management System, as required by any District Permit, as such may be modified from time to time. Such right expressly includes the right, subject to required Permit(s), to cut any trees, bushes or shrubbery, to make any gradings of soil, to construct or modify any berms placed on any Lots which are included in the Stormwater Management System or to take any other action reasonably necessary, following which Developer or the Association shall restore the affected property to its original condition as nearly as practicable. Neither Developer, the Golf Club nor the Association shall be required to replace or repair fences, walks, structures, landscaping, or other Improvements located within the Stormwater Management System maintenance easement which are removed or damaged. Developer or the Association shall give reasonable notice of its intent to take such action to all affected Owners, unless, in the opinion of Developer or the Association, an emergency exists which precludes such notice. The rights granted herein may be exercised at the sole option of Developer or the Association and shall not be construed to obligate Developer or the Association to take any affirmative action in connection therewith. The Owners of Lots adjacent to the retention areas within the Stormwater Management System are granted a perpetual, nonexclusive easement for ingress and egress over and across the Stormwater Management System for the sole purpose of providing maintenance and erosion control to the embankments of such retention areas.
3. Maintenance. Except as otherwise set forth herein, the Association shall be responsible for the maintenance, operation and repair of all portions of the Stormwater Management System, including portions thereof located within the Golf Club. Such maintenance shall include the exercise of practices which allow or maintain the ability of the Stormwater



Management System to provide drainage, water storage, conveyance or other capabilities in accordance with all Permits, statutes, rules and regulations pertaining to surface water management, drainage and water quality promulgated by the District, the Florida Department of Environmental Protection and all other local, state and federal authorities having jurisdiction. The costs of such maintenance shall be levied as Assessments. The Golf Club shall be responsible for paying a pro rata share of the costs of maintenance of the Stormwater Management System, which amount shall be determined based on the acreage of the Golf Club served by the Stormwater Management System as a percentage of the overall property served by the Stormwater Management System, but in no event in excess of five percent (5%) of such costs. The Association shall periodically maintain, and where necessary, replace exfiltration drainage systems in accordance with design specifications. The Association shall be responsible for the routine removal and disposal of trash which may accumulate within the Stormwater Management System. The Association, at the sole direction and control of the Golf Club, as the primary owner of the Stormwater Management System, shall maintain and control the water level and quality of the Stormwater Management System and the bottoms of any retention lakes or drainage easements which retain or hold stormwater on a regular basis. The Association shall have the power, right, obligation and responsibility, as may be required, allowed or permitted by any applicable governmental entity, to control and eradicate plants, fowl, reptiles, animals, fish and fungi in and on any portion of the retention lakes or drainage easements. The Owners of Lots adjacent to the Stormwater Management System shall maintain all shoreline vegetation and the grade and contour of all embankments to the water's edge (as it may rise and fall from time to time), to keep the grass, plantings, and other lateral support of the embankments in a clean and safe manner and to prevent erosion.

4. Improvements. No docks, bulkheads or other structures, permanent or temporary, shall be constructed on, over or under any portion of the Stormwater Management System without the prior written consent of the Golf Club, or where applicable, the Association, as owner of the affected portion of the Stormwater Management System, and the approval of the ARB, which consent or approval may be withheld for any reason. No person shall alter the drainage flow of or to the Stormwater Management System, including buffer areas or swales, without the prior written approval of the District, the ARB and the Golf Club, or where applicable, the Association. Any improvements to the Stormwater Management System approved by the Golf Club, the Association and the ARB and installed by the Owner shall be maintained by such Owner in accordance with the maintenance provisions of this Declaration. Any structure constructed within the Stormwater Management System shall be subject to removal or termination of use if the Stormwater Management System is changed, altered or relocated by the Golf Club or the Association.

5. Use and Access. Developer, the Association and the Golf Club shall have the right to adopt reasonable rules and regulations from time to time in connection with the Owners' use of the surface waters of any portion of the Stormwater Management System, and shall have the right to deny such use to any person who, in the opinion of Developer, the Association or the Golf Club, may create or participate in a disturbance or nuisance within any portion of the Stormwater Management System. The use of the Stormwater Management System by the Owners shall be subject to and limited by the rules and regulations of Developer, the Association, the Golf Club and all Permits issued and rules adopted by governmental authorities. The Owners shall have access to the Stormwater Management System only over those portions of the Common Property designated for such purpose by Developer and the Golf Club or Association as the affected owner thereof. Only the Golf Club shall have the right to pump or otherwise remove any water from any part of the Stormwater Management System for purposes of irrigation, which use shall, where applicable, be approved by the District in accordance with the District rules and Permits issued thereunder. No gas or diesel driven watercraft shall be operated on any portion of the Stormwater Management System, including the retention lakes, except as required for maintenance and authorized by the Golf Club or Association, as the affected owner thereof.

6. Disclaimer of Liability. Neither Developer, the Golf Club, the Association, nor any of their successors, assigns, officers, directors, committee members, employees, management agents, contractors or subcontractors (collectively, the "Listed Parties") shall have any liability whatsoever to the Owners, their family members, guests, tenants, licensees or invitees in connection with the construction, operation or maintenance of any part of the Stormwater Management System. Each Owner, for himself/herself and his/her family members, guests, tenants, licensees, invitees, agents and invitees, releases Developer, the Golf Club and the Association from any liability in connection therewith.

All Owners and users of any portion of the Property located adjacent to or having a view of any of the aforesaid areas shall be deemed, by virtue of their acceptance of a deed to, or by their use of, such Property, to have agreed to hold harmless the Listed Parties from all liability related to any changes in the quality and level of the water in the Stormwater Management System.

All persons are hereby notified that from time to time wildlife may inhabit or enter into water bodies contained within or adjacent to the Property and may pose a threat to persons, pets and property, and that the Listed Parties are under no duty to protect against, and do not in any manner warrant against, any death, injury or damage caused by such wildlife.

All persons are hereby notified that lake banks and slopes within certain areas of the Property may be steep and that depths near shore may drop off sharply. By their acceptance of a deed to, or by their use of, any Lot within the Property, all Owners shall be deemed to have agreed to hold harmless the Listed Parties from all liability or damages arising from the design, construction or topography of any lake banks, slopes, or bottoms.

7. Wetlands and Jurisdictional Land. This Declaration is subject to the jurisdiction of the State of Florida and the federal government over portions of the Property which may be considered wetlands, marshes, sovereignty or jurisdictional lands, and every Owner shall obtain any permit necessary prior to undertaking any dredging, filling, improving, landscaping or removal of plant life existing on his/her Lot. Further, in the event that berms and/or other such control structures are constructed within Lots which are contiguous to any jurisdictional lands, the Owners thereof shall not remove or modify the berms without the consent of the applicable governmental entities, if any, and the ARB.
8. Conservation Easement. Developer grants to the District a perpetual, non-exclusive easement for conservation over the restricted area located within the rearmost twenty-five feet (25') of those certain lots which border the Cedar Creek Swamp, as more particularly shown and described on the Plat. The easement shall be considered a conservation easement subject to the use prohibitions set forth in Section 704.06(1)(a)-(h), Florida Statutes (1995). Uses prohibited within the restricted area include, but are not limited to, clearing, dredging, filling and construction. The District shall have the right to prevent any use or activity within the restricted area that is inconsistent with the purposes of this easement and to require the restoration of portions of the restricted area that may be damaged by any inconsistent activity or use. Developer, or the fee simple owner of the restricted area if not Developer, hereby reserves for itself, its successors and assigns, all rights accruing from ownership of the restricted area, including the right to engage in or permit, or invite others to engage in uses of the restricted area not expressly prohibited herein that are not inconsistent with the purposes of this easement. Nothing contained in this easement shall entitle the District to bring an action against Developer or the fee simple owner of the restricted area if other than Developer, its successors and assigns, for any injury to or change in the restricted area resulting from natural causes beyond the owner's reasonable control, including without limitation, fire, flood, storm and earth movement, or for any action taken by Developer or other said owner under emergency conditions to prevent, abate or mitigate significant injury to persons or property. No right of access to the general public is conveyed by this easement. The District, by acceptance of this easement, acknowledges and agrees that Developer, its successors and assigns, may use adjoining property under its ownership for such lawful uses as it may from time to time desire. This easement and the rights and interests arising

hereunder shall not entitle the District to object to or challenge a lawful use of Developer's adjoining property and the District shall not interfere with, or take any action in opposition to, Developer's lawful use of its adjoining property based on the rights acquired under this easement.

9. Rights of the District. Notwithstanding any other provisions contained elsewhere in this Declaration, the District shall have the rights and powers enumerated in this Section. The District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation and repair of the Stormwater Management System, as required under the applicable Permits. Any repair or reconstruction of the Stormwater Management System shall be as permitted or otherwise allowed by the District. No person shall alter the drainage flow of the Stormwater Management System, including any buffer areas or swales, without the prior written approval of the District. Any amendment to this Declaration which alters the Stormwater Management System beyond its permitted condition must have prior written approval of the District. In the event that the Association is dissolved, prior to such dissolution, all responsibility relating to the Stormwater Management System must be assigned to and accepted by an entity approved by the District.
  
10. Indemnity. The Association and the Owners, their successors, assigns, invitees, family members, guests, tenants, licensees, agents and employees agree that, subsequent to the recording of this Declaration, they shall indemnify and hold Developer and the Golf Club harmless from all suits, actions, damages, liabilities and expenses in connection with loss of life, bodily or personal injury or property damage arising out of any occurrence in, upon, at or from the operation, maintenance or repair of the Stormwater Management System occasioned in whole or in part by any action or omission of Developer, the Golf Club or the Association or of their respective agents, contractors, employees, servants, invitees or licensees, excluding, however, any liability occasioned in whole or in part by the negligent acts of Developer or the Golf Club, their respective agents, contractors, employees, servants, invitees or licensees.

D. Developer's Rights. Developer, its successors and assigns, shall have the unrestricted right, without approval or joinder of any other person or entity (i) to designate the use of, alienate, release or otherwise assign the easements shown on the Plat of the Property or described herein, (ii) to plat or replat all or any part of the Property owned by Developer and (iii) to widen or extend any right-of-way shown on any Plat of the Property or convert a Lot to a right-of-way, provided that Developer owns the lands affected by such change. Owners of Lots subject to easements shown on any Plat of the Property shall acquire no right, title or interest in any of the cables, conduits, pipes, mains, lines or other equipment or facilities placed on, over or under the easement area(s). The Owners of Lots subject to any easements shall not construct any Improvements on the easement areas, alter the flow of drainage or landscape such areas with hedges, trees or other landscaping that might interfere with the exercise of the

easement rights. Any Owner who constructs any Improvements or landscaping within such easement areas shall remove the Improvements or landscape items upon written request of Developer, the Association or the grantee of the easement.

E. Golf Course Easements and Restrictions. Lots abutting or contiguous to the golf course owned or operated by the Golf Club are hereby subjected to an easement for the ordinary and usual activities associated with the playing of golf, including without limitation the removal of balls, noise of players and carts and normal maintenance of a golf course. All fencing and other Improvements abutting the golf course shall be strictly reviewed by the ARB and/or the Golf Club to assure that such fencing and Improvements do not interfere with the playing of golf or the construction, maintenance or repair of the golf course. The Golf Club shall have the right, but not the obligation, to reasonably enter onto accessible areas within the rearmost fifteen feet (15') of any Lot or portion of the Property, including the Common Property, abutting the golf course to remove underbrush or other material extending onto the golf course which may interfere with the use thereof. In addition, all Owners of Lots abutting the golf course, as well as their family members, tenants, guests, invitees, licensees, agents, employees and pets, shall be obligated to refrain from any actions which would detract from the playing of golf. OWNERS OF LOTS ABUTTING THE GOLF COURSE ARE HEREBY WARNED OF THE POSSIBILITY OF INJURY TO PERSONS OR DAMAGE TO PROPERTY IN CONNECTION WITH THE OPERATION, MAINTENANCE AND USE OF THE GOLF COURSE. SUCH RISK OF INJURY OR DAMAGE IS HEREBY ASSUMED BY THE OWNERS, AND NEITHER THE DEVELOPER, THE GOLF CLUB NOR THE ASSOCIATION SHALL BE LIABLE FOR ANY INJURIES OR DAMAGES THAT MAY BE INCURRED BY ANY OWNERS, THEIR FAMILIES, TENANTS, GUESTS, EMPLOYEES, LICENSEES, AGENTS OR INVITEES.

#### VI. UTILITIES

A. Water System. Each Owner will be required to connect his/her Lot and Residence to the City of Jacksonville or other public utility system, at such Owner's sole cost and expense.

B. Sewage System. Each Owner will be required to connect his/her Lot and Residence to the City of Jacksonville or other public utility sewer system, at such Owner's sole cost and expense. Each Owner shall apply to the applicable governmental agencies to obtain approval of the sewer connection, including without limitation, approval of the location thereof. No sewage shall be discharged onto the open ground or into any lake, pond, park, ravine, drainage ditch, canal or roadway.

#### VII. ARCHITECTURAL CONTROL

A. Purpose. In order to assist in making Glen Kernan a high quality community, the ARB shall have the right to exercise architectural control over all Improvements constructed, erected or placed upon any part of the Property. Such architectural control may include review of all architectural aspects of any Improvement, including, without limitation, size, height, site planning, setbacks, exterior design, materials, colors, open space, landscaping, waterscaping and other aesthetic criteria. For so long as Developer owns any Lot, it shall have the sole right to appoint the members of the ARB. Thereafter, the members of the ARB shall be appointed by

the Board of Directors as designated in the Bylaws. If the Board of Directors fails to so appoint the ARB, then the Board of Directors shall constitute the ARB.

B. Construction Subject to Architectural Control.

1. ARB Approval. No Residence may be constructed on any Lot, except by a builder that is on the ARB-Approved Builder List. No construction, modification, alteration or Improvement of any nature whatsoever, except for interior alterations not affecting the external structure or appearance of any Residence or Improvement, shall be undertaken on any Lot unless and until a plan for such construction, modification, alteration or Improvement shall have been approved in writing by the ARB. No construction or reconstruction of any Improvement on any Lot or within the Property shall be commenced, and no Residence shall be modified, except in accordance with such approved plans and specifications. The ARB shall evaluate all plans and specifications for Improvements submitted to it for conformance with the provisions of this Declaration and the Glen Kernan Architectural Design Standards. No Improvements shall be commenced, erected, placed or maintained upon any Lot unless and until the same shall have been submitted to and approved in writing by the ARB.
2. Improvements Subject to Approval. Construction and modifications of Improvements subject to approval by the ARB specifically include, but are not limited to, the painting or other alteration of the exterior appearance of a Residence (including doors, windows and roof); installation of antennae, satellite dishes or receivers, solar panels or other devices; construction of decks, fountains, swimming pools, whirlpools or other pools; construction of privacy walls or other fences; addition of awnings, signs (whether located on the Lot or in windows of the Residence), gates, flower boxes, shelves, statues or other outdoor ornamentation, or of patterned or brightly colored window coverings; alteration of the landscaping or topography of the Property, including, without limitation, any cutting or removal of trees, planting or removal of plants, and creation or alteration of lakes or similar features of the Property; and all other modifications, alterations or Improvements visible from any road or other Lots.
3. Procedures.
  - a. Application. It shall be the responsibility of each Owner to supply four (4) sets of the documents described herein to the ARB. The ARB shall approve or disapprove, in writing, the documents properly submitted to it within thirty (30) days of such submission. The application for review of the plans and specifications for the Improvements shall be accompanied by a review fee, which amount shall be established by the ARB and payable to the

Association, as it may be adjusted from time to time in the sole discretion of the ARB. The review fee shall be non-refundable, whether or not the application submitted by an Owner is approved. Any requests shall be deemed approved if the ARB fails to issue a written approval or disapproval with thirty (30) days of proper submission of the request. The documents, materials and items to be submitted for approval shall include four (4) sets of the following:

- (i) construction plans and specifications, if any, including all proposed landscaping;
- (ii) an elevation or rendering of all Improvements, if any;
- (iii) samples of materials or paint colors; and
- (iv) such other items as the ARB may deem appropriate.

- b. Basis for Decision. Approval shall be granted or denied by the ARB based upon compliance with the provisions of this Declaration and any guidelines established pursuant thereto, the quality of workmanship and materials, the harmony of the external design with its surroundings, the effect of the construction on the appearance from surrounding Lots and all other factors, guidelines and standards promulgated from time to time, including purely aesthetic considerations which, in the sole opinion of the ARB, affect the desirability or suitability of the construction.

In connection with its approval or disapproval of an application, the ARB shall evaluate each application for total effect. The evaluation relates to matters of judgment and taste which cannot be reduced to a simple list of measurable criteria. It is possible, therefore, that an application may meet individual criteria and still not receive approval if, in the sole judgment of the ARB, its overall aesthetic impact is unacceptable. The approval of an application shall not be construed as creating any obligation on the part of the ARB to approve applications involving similar designs for different Lots. In addition, the ARB shall have the right to waive or modify the requirements as more fully set forth in subparagraph "f." below.

- c. Uniform Procedures. The ARB may establish uniform procedures for the review of applications, including the assessment of review costs and fees, if any, to be paid by the applicant, the requirement of a security deposit, the time and place of meetings and/or the posting of a compliance bond to ensure the full and timely compliance by the applicant with the conditions imposed by the ARB. No submission for approval shall be considered by the ARB unless and until such submission is in compliance with the provisions of this Article.

- d. **Notification.** The ARB shall indicate its approval by stamping the plans with its seal and the date of approval. If the ARB disapproves the requested Improvement, it shall provide written notice of such disapproval to the Owner. Disapproval by the ARB may be appealed to the Board of Directors of the Association, and the determinations of the Board of Directors shall be final and dispositive.
- e. **Landscaping.** A detailed landscaping plan for each Lot must be submitted to and approved by the ARB as part of the plans and documents for the requested Improvements. All plant material shall be of Florida Grade Number One or better. Sodding with St. Augustine or Bermuda grass varieties will be required on all Lots.

The landscaping of the Lot shall be completed in accordance with the approved landscaping plan prior to the initial occupancy of the Residence. In the event the landscaping is not completed as provided herein, the Association shall have the right to enter upon the Lot and complete the landscaping in accordance with the approved plans, in the same manner as exterior maintenance may be performed by the Association pursuant to Article IV of this Declaration. In such event, the Association shall be entitled to an Assessment against the Lot in an amount equal to one hundred and twenty percent (120%) of the cost to complete the landscaping, which Assessment shall be collected as provided in Article III herein.

- f. **Variances.** The ARB may authorize a variance from compliance with any of the architectural provisions of this Declaration when circumstances such as topography, natural obstructions, hardships, aesthetic or environmental considerations require. A variance shall be evidenced by a document signed by a majority of the members of the ARB. If a variance is granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. A variance shall not, however, operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular Lot and the particular provisions of this Declaration covered by the variance, nor shall it in any way affect the Owner's obligation to comply with all governmental laws and regulations, including, but not limited to, zoning ordinances, setback lines and other governmental requirements.
- g. **Enforcement.** The Board of Directors shall have the authority and standing, on behalf of the Association, to enforce, in courts of competent jurisdiction, the decisions of the ARB.



4. Architectural Guidelines. The ARB shall consider the following provisions in connection with its review, together with any architectural guidelines issued by the ARB from time to time. Specific references to the ARB in these provisions, however, shall not be construed as a limitation of the general review power of the ARB, as set forth in this Article.
  - a. Building Type. No building shall be erected, altered, placed or permitted to remain on any Lot or Reconfigured Lot, other than one detached single family Residence which shall not exceed thirty-five feet (35') in height and which shall have a private and enclosed garage for not less than two (2) cars.
  - b. Building Material. All building materials shall be approved by the ARB.
  - c. Roofs. Flat roofs and protrusions through roofs for power ventilators or other apparatus shall not be permitted unless approved by the ARB. Roofing and shingle material shall be approved by the ARB as to color and material. Any reroofing or reshingling of the Residence other than with the same materials and same color shall be approved by the ARB.
  - d. Garages. All garages must have either a single overhead door with a minimum door width of sixteen feet (16') for a two-car garage, or two (2) sixteen foot (16') doors for a four-car garage, or two (2), three (3), or four (4) individual doors, each a minimum of ten feet (10') in width (or eight feet (8') in width with a two foot (2') separation), and a service door. No carports will be permitted.
  - e. Driveway Construction. All Residences shall have a paved or brick driveway of stable and permanent construction of a width no less than sixteen feet (16') at the curb and not less than door-to-door width at the entrance of the garage. All driveways must be constructed with approved materials. The ARB may establish driveway restrictions on selected roadways for Lots which front on two streets.
  - f. Fences. The use of fences, walls and other forms of visual screens throughout the Property shall be subject to prior approval by the ARB and shall be limited to those portions of the Lots closely surrounding the Residences, so as not to unnecessarily or unduly restrict the view of others.
  - g. Ancillary Structures. Unless approved by the ARB as to use, location and architectural design, no garage, tool shed, guest quarters or storage buildings shall be constructed separate and apart from the Residence, nor shall any such structures be

constructed prior to construction of the Residence. Any permitted ancillary structures, such as detached garages, guest quarters or storage buildings, shall be constructed of the same materials and in the same architectural style as the Residence and shall be subject to the same setback lines, approval of the ARB, and other restrictions applicable to the Residence itself.

- h. **Minimum Residence Area.** Each Residence constructed upon the Property must contain a minimum of two thousand eight hundred (2,800) square feet of heated and air-conditioned floor area; provided, however, that the ARB shall have the right to approve Residences which contain up to ten percent (10%) less square feet of heated and air-conditioned floor area, if the ARB deems it to be reasonable or necessary.
- i. **Setbacks.** No Residence shall be erected within any easement area (excluding blanket easements) depicted on the Plat or reserved in this Declaration, or within the following setback distances from the respective Lot or Reconfigured Lot boundary lines:

Front line setback	50' minimum
Side line setbacks	15' minimum per side (except corner lot street side line)
Corner lot side line setback	25' minimum for street frontage side line
Rear line setback	25' minimum

For corner Lots, there shall be only one front line setback, which location shall be approved by the ARB. All setbacks shall be measured from the property line to the closest exterior wall of the Residence. Except as may be required by the ARB, the rear setback shall not apply to pools, pool decks, gazebos, decks and other similar structures; provided, however, no structures of any kind shall be permitted within twenty feet (20') of the rear lot line for Lots which adjoin the golf course. Variances from the above setbacks may be approved by the ARB.

- j. **Antennae and Other Devices.** Unless prior written approval has been obtained from the ARB, no exterior radio or television antenna, satellite dish or other receiving or transmitting device, antenna, aerial, solar panel or other solar collector, windmill or any

similar, exterior structure or apparatus may be erected or maintained anywhere within the Property. In evaluating whether to approve such devices, the ARB shall consider the color, location and size of the device, and whether it is visible from other Lots or any road. Consideration shall be in accordance with the ARB Guidelines for Satellite Dishes and Antennae, as amended from time to time.

- k. Artificial Vegetation. No artificial grass, plants, or other artificial vegetation shall be placed or maintained upon any lot.
- l. Lighting. No permanent external lighting shall be installed without the prior approval of the ARB. No lighting shall be permitted which alters the residential character of the Property.
- m. Recreational Structures. All basketball backboards, tennis courts, and recreational structures shall be located at the rear of the Residence or on the inside portion of corner Lots within the setback lines; provided, however, any basketball backboards shall be located so as to minimize noise to adjoining Residences. No platform, doghouse, tennis court, playhouse, play fort or other recreational structure shall be constructed on any part of a Lot located within the rear line setback of the Residence, and any such structure shall have the prior approval of the ARB. Any portion of a Reconfigured Lot used for recreational purposes must be adequately screened along the front and sides by landscaping, fencing or walls, as approved by the ARB, so that such facilities shall not be visible from any road.
- n. Utility Connections. Building connections for all utilities, including, but not limited to, water, electricity, telephone and cable television, shall be run underground from the connecting points to the Residence in a manner acceptable to the governing utility authority.
- o. Window Coverings. Reflective window coverings and heat mats are expressly prohibited, and only neutral, solid-colored window coverings shall be permitted on any Residence. The ARB may prohibit window treatments which are not reasonably compatible with the aesthetic standards of the Property.
- p. Mailboxes. No mailbox, paper box or other receptacle of any kind for any use in the delivery of mail, newspapers, magazines, packages or similar materials shall be erected on any Lot without the approval of the ARB as to style and location. The ARB may elect to require group mailboxes.

- q. Energy Conservation. Solar energy and other energy conservation devices are not prohibited or discouraged, but the design and appearance of such devices will be closely scrutinized and controlled by the ARB to assure consistency with the aesthetic standards of the Property.
  - r. Interference with Roads or Easements. Without limiting or qualifying other provisions of this Declaration, nothing shall be erected, constructed, planted or otherwise placed in such a position so as to create a hazard or block the vision of motorists upon any roads within or adjacent to the Property. No modification, alteration or Improvement shall interfere with the easements or other rights set forth in this Declaration.
  - s. Sidewalks. In connection with the construction of a Residence, the Association may require construction of a sidewalk along the front of a Lot in accordance with design specifications adopted by the ARB and governmental-approved engineering plans.
  - t. Exfiltration System. No trees, fences or structures shall be located within drainage easement areas which contain exfiltration trenches.
5. Remedy for Violations. In the event that any Improvement is constructed without first obtaining the approval of the ARB, or is not constructed in strict compliance with any approval given or deemed given by the ARB, or the provisions of this Article are otherwise violated, the ARB, as the authorized representative of the Association, shall have the specific right to injunctive relief to require the Owner to stop, remove and/or alter any Improvements in order to comply with the requirements hereof, or the ARB may pursue any other available judicial remedy. In connection with this enforcement Section, the ARB shall have the right to enter onto any Lot to make any inspection necessary to determine whether the provisions of this Declaration have been complied with. The failure of the ARB to object to any Improvement prior to its completion shall not constitute a waiver of the ARB's right to enforce this Article. The foregoing rights shall be in addition to any other remedy set forth herein for violations of this Declaration.
6. Reservation of Right to Release Restrictions. In each instance where an Improvement has been erected, or construction thereof has substantially advanced, in such a manner that some portion of the Improvement encroaches on any Lot line, setback line or easement area, Developer reserves for itself, its successors, assigns and designees, the right to release such Lot from the encroachment and to grant an exception to permit the encroachment without the consent or joinder of any person, irrespective of who owns the burdened Lot or easement areas, so long as

Developer, in the exercise of its sole discretion, determines that the release or exception will not materially or adversely affect the value of the adjacent Lot and the overall appearance of the Property. This reservation shall automatically pass to the Association when Developer no longer owns any portion of the Property. Upon granting an exception to an Owner, the exception shall be binding upon all subsequent Owners of the affected Lot.

7. No Liability. Notwithstanding anything contained herein to the contrary, the ARB shall merely have the right, but not the obligation, to exercise architectural control, and shall not be liable to any Owner, its successors, assigns, personal representatives or heirs, due to the exercise or non-exercise of such control or the approval or disapproval of any Improvement. Furthermore, the approval of any plans and specifications or any Improvements shall not be deemed to be a determination or warranty that such plans and specifications or Improvements are (i) complete, (ii) do not contain defects, (iii) meet applicable standards, guidelines or criteria of the ARB, (iv) are architecturally or aesthetically appropriate, or (v) comply with any applicable governmental requirements. Neither the ARB, the Association, nor Developer shall be liable for any defect or deficiency in such plans and specifications or Improvements, or any injury to persons or property resulting therefrom.

#### VIII. USE RESTRICTIONS

A. Protective Covenants. In order to keep the Property a desirable place to live for all Owners, the following protective covenants and restrictions are made a part of this Declaration. Without limiting any of the provisions or requirements hereof, the specific references to ARB approval set forth in this Article or elsewhere in this Declaration shall not be construed as a limitation of the requirements of this Article.

B. Lot Resubdivision. No Lot shall be further subdivided, replatted or separated into smaller Lots by any Owner. Provided, however, this restriction shall not prohibit corrective deeds or similar corrective instruments. Developer shall have the right to reconfigure Lots or modify Plats of the Property if Developer owns all the Lots within the legal description of the Property to be reconfigured or subjected to the replat, or if all Owners of Lots which are included within the portion of the Plat so modified consent to such modification, which consent shall not be unreasonably withheld or delayed.

C. Residential Use. Each Lot shall be used, improved and devoted exclusively to single family residential use, and for no commercial purpose. No timeshare ownership of Lots shall be permitted without Developer's approval. Nothing herein shall be deemed to prevent any Owner from leasing a Residence (subject to all of the provisions of this Declaration, the Articles and Bylaws) nor to prevent Developer from converting the use of a platted Lot to a road for ingress and egress from an adjacent Lot or land. The foregoing restriction shall not operate to prevent Developer or its successors, assigns or designees from using one or more Residences as model homes or sales centers during the development and sale of the Property, though no

other business or commercial use may be made of any part of the Property. Provided, however, an occupant of a Residence who maintains a personal or professional library or office, keeps personal or professional books or accounts, conducts personal business (provided that such use does not involve customers, clients, employees, licensees or invitees regularly visiting the Residence), makes professional telephone calls or prepares professional correspondence in or from a Residence is engaging in a residential use and shall not be deemed to be in violation of this Section by reason thereof.

D. Nuisances: Other Improper Use. No nuisance shall be permitted to exist on any Lot or Common Property so as to be detrimental to any other Lot in the vicinity thereof, or its occupants or to the Common Property. Examples of activities which may be deemed to constitute nuisances include, but are not limited to, yard decorations, decorative lighting, statues and unmaintained yards and structures. Any activity on a Lot which interferes with television, cable or radio reception on another Lot shall be deemed a nuisance and a prohibited activity. No offensive or unlawful use shall be made of the Property or any part thereof. All laws, zoning ordinances, orders, rules, regulations and requirements of any governmental agency having jurisdiction relating to any portion of the Property shall be complied with, by and at the sole expense of the Owner or the Association, whichever shall have the obligation to maintain or repair such portion of the Property. No waste will be allowed or permitted upon the Common Property. Owners hereby acknowledge that any construction activity on or about the Property during daylight hours shall not be deemed to be a nuisance. The determination of the Board of Directors as to what may be or become a nuisance shall be conclusive.

E. Insurance. Nothing shall be done or kept in any Residence, Lot or on the Common Property which will increase the rate of insurance for the Property or any other Lot, or the contents thereof, without the prior written consent of the Association. No Owner shall permit anything to be done or kept in a Residence, on a Lot or on the Common Property which will result in cancellation of insurance on the Property or any other Lot, or the contents thereof, or which would be in violation of any law.

F. Access. Owners shall allow the Board of Directors or the agents or employees of the Association to enter any Lot for the purpose of maintenance, inspection, repair or replacement of the Improvements within the Lot; or, in case of emergency, for any lawful purpose; or to determine compliance with this Declaration.

G. Pets. No animals, livestock or poultry shall be raised, bred or kept anywhere within the Property, except that a maximum of four (4) dogs, cats and other household pets may be kept within a Lot, provided that they are not kept or maintained for any commercial purpose and are kept within designated areas of the Lot or Residence, and provided such permitted pets shall not become a nuisance. All pets must be held or kept leashed or otherwise appropriately restrained at all times they are on the Common Property, and all owners of pets shall be held strictly responsible to immediately collect and properly dispose of the wastes and litter of their pets. The Association reserves the right to designate specific areas within the Common Property where pets may be walked on leashes by their owners. The Association further reserves the right to demand that an Owner permanently remove from the Lot and Property all pets which create disturbances or annoyances that constitute nuisances, in the sole determination of the

Board of Directors. The decision of the Board of Directors in such matters is conclusive and shall be enforced by the Association.

H. Signs. No sign, advertisement or notice of any type whatsoever including, without limitation, "For Sale" and "For Lease" signs, shall be erected or displayed upon any Lot, Residence, the Common Property, or from any window, except in accordance with standards adopted by the ARB, or unless the express prior written approval of the size, shape, content, appearance and location for such has been obtained from the ARB, which approval may be withheld for any reason. The ARB may, in its sole discretion, prohibit all signs. Notwithstanding the foregoing, Developer, its successors and assigns, and those persons or entities specifically designated by Developer, shall be permitted to post and display advertising signs on the Property for the marketing, sale or rental of Lots.

I. Parking. Only automobiles bearing current license and registration tags, as required pursuant to applicable state law, shall be permitted to be parked on any portion of a Lot designated for vehicular parking. Other vehicles, trailers and watercraft shall not be permitted to be parked in a driveway or street and must be parked wholly within a garage, except as otherwise approved in writing by the ARB or as permitted under rules and regulations adopted by the Board of Directors. All parking within the Property shall be in accordance with rules and regulations adopted by the Board of Directors. The Board of Directors may, from time to time, adopt rules and regulations regulating the storage and parking of non-standard sized vehicles (including any recreational type vehicles), trailers and watercraft, including architectural guidelines for the location of such storage areas and the required screening therefor.

J. Visibility at Street Intersections. The ARB shall have the right to adopt additional restrictions concerning the height and type of trees and shrubs within any Lot in order to ensure adequate visibility at street intersections.

K. Clotheslines. No clotheslines or other clothes-drying facility shall be permitted on a Lot, the Common Property or other portions of the Property.

L. Garbage and Trash Containers. All garbage and trash containers must be placed and maintained in accordance with rules and regulations adopted by the Board of Directors. Garbage and trash containers must be placed at the street for collection only on the day of collection, and at all other times must be kept in locations which are not visible from adjoining Lots or any streets. No garbage or trash shall be placed elsewhere on a Lot, and no portion of the Property shall be used for dumping refuse.

M. Window Air Conditioners. No window air-conditioning unit shall be installed on any Improvement, Residence or other building located upon any Lot or elsewhere on the Property.

N. Temporary Structures. No structure of a temporary character, including, without limitation, any trailer, tent, shack, barn, shed or other outbuilding, shall be permitted on any Lot at any time, except approved recreational structures and temporary structures maintained by contractors for the construction of Residences. The foregoing restriction shall not preclude Developer from maintaining temporary structures for the purpose of construction of any Improvements or Residences and the marketing and/or sales of Lots.

O. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot or on the Property.

P. Hazardous Materials. No hazardous or toxic materials or pollutants shall be maintained, stored, discharged, released or disposed of in, on or under the Property except in strict compliance with applicable governmental laws, statutes, rules and regulations. Fuel or gas storage tanks or other flammable, combustible or explosive fluids, materials or substances for ordinary household use may be stored or used in the Property only in strict compliance with manufacturers' directions and applicable safety laws and codes, and shall be stored in containers specifically designed for such purposes.

Q. Removal of Trees. In order to preserve the environment and the aesthetic appearance of the Property, no trees having a diameter at breast height of six inches (6") which remain on a Lot at the time of completion of the Improvements shall be felled, removed or cut down without the written approval of the ARB, unless such trees are within five feet (5') of the footprint of a Residence or represent an imminent hazard to the Residence or other Improvements on the Lot or to persons occupying or utilizing the Property. In addition to any other remedies available under this Declaration, the ARB may impose a fine of up to \$500.00 for any tree improperly removed hereunder.

R. Garages. No garage shall at any time be used as a Residence or converted to become part of the Residence, except with ARB approval and provided another garage is constructed in compliance with the provisions hereof. Provided, however, a garage may be used by Developer as a sales office during the marketing of the Property. All garage doors must be closed when not in use.

S. Soliciting. No soliciting will be allowed at any time within the Property except by Developer or its successors, assigns or designees during the marketing and/or sales of the Lots.

T. Amendments and Modifications. The Board of Directors and the ARB may from time to time adopt and amend rules and regulations governing the details of the operation, use, maintenance and control of the Residences, Lots, Common Property and any facilities or services made available to the Owners. A copy of the rules and regulations adopted from time to time as herein provided shall be given to each Owner.

U. Compliance. It shall be the responsibility of all Owners, their family members, authorized guests, licensees, invitees, agents, employees and tenants to conform with and abide by the rules and regulations in regard to the use of the Residences, Lots and Common Property, which may be adopted in writing from time to time by the Board of Directors and the ARB, and to insure that all persons using an Owner's Lot do likewise.

V. Personal Services. The employees of the Association shall not be required to attend to any personal matters or business of Owners, nor shall they be permitted to leave the



Property on any private business matters of Owners. The uses and functions of such employees shall be governed by the Board of Directors. In the event personal services are provided to Owners by any employee of the Association, the Association will not assume any responsibility or be liable for, in any manner, the quality of such service or work provided, nor shall it warrant such services or work. In addition, the Association shall not be liable for any injury to persons or damage to property resulting from any act or omission by those performing such personal work or services for Owners.

IX. INSURANCE

A. Types of Coverage.

1. Insurance of Common Property. The Board of Directors shall obtain liability insurance on the Common Property and, to the extent the Board of Directors deems reasonable or necessary, may obtain casualty insurance and adjust the amount of liability insurance, all as consistent with prudent business judgment, including the following:
  - a. Hazard insurance on the Common Property and any Improvements constructed thereon, with extended coverage and vandalism, malicious mischief and windstorm endorsements in an amount not less than that necessary to comply with the coinsurance percentage stipulated in the policy, and in any event not less than the maximum insurable replacement value of the Improvements constructed on the Common Property.
  - b. Public liability insurance in such limits as the Board of Directors may from time to time determine, insuring against any liability arising out of, or incident to, the ownership and use of the Common Property. Such insurance shall be issued on a comprehensive liability basis and shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association, the Board of Directors or of other Owners. The Board of Directors shall review such limits once each year.
2. Insurance of the Lots. It shall be the responsibility of each Owner to obtain, at his/her own expense, liability insurance with respect to the ownership and use of his/her Lot, including the Residence. The Association shall not be responsible for obtaining such insurance or have any liability whatsoever in connection therewith. It shall be the responsibility of each Owner to obtain and maintain hazard insurance and insurance against the perils customarily covered by an extended coverage endorsement in an amount not less than the full replacement cost of the Residence, and each Owner shall submit evidence of such insurance coverage, together with evidence of payment of the most recent premium therefor, to the Association upon request.

3. Director and Officer Liability Insurance. The Board of Directors may obtain, as a matter of common expense payable from the Annual Assessments, liability insurance against personal loss for actions taken by members of the Board of Directors, officers of the Association and the ARB in the performance of their duties. Such insurance shall be of the type and amount determined by the Board of Directors, in its sole discretion.
  4. Other Coverage. The Board of Directors shall obtain and maintain worker's compensation insurance, if and to the extent necessary to meet the requirements of law, and such other insurance as the Board of Directors may determine to be necessary or prudent, or as may be requested from time to time by a majority of the Owners. The Board of Directors may from time to time increase or decrease the types and amounts of insurance coverage, as may be necessary or convenient, or to comply with the requirements of any Mortgagor or based upon the cost and availability of such coverage.
- B. Repair and Reconstruction After Casualty.
1. Common Property. In the event of damage to or destruction of all or any of the Improvements on the Common Property as a result of fire or other casualty, the Board of Directors shall arrange for and supervise the prompt repair and restoration of such Improvements substantially in accordance with the plans and specifications under which the Improvements were originally constructed, or any modification thereof approved by the ARB. The Board of Directors shall pursue reconstruction of such Improvements as quickly as practicable under the circumstances, and shall obtain funds for such reconstruction from the insurance proceeds and any Special Assessments which may be necessary after exhaustion of reserves for the repair and replacement of such Improvements.
  2. Residences. Any Owner whose Residence is destroyed or damaged by fire or other casualty shall immediately proceed to rebuild, repair and restore his/her Residence to the condition existing immediately prior to such damage or destruction, unless other plans are approved in accordance with the provisions of Article VII above. Provided, however, if the damage is so extensive that the Owner determines not to rebuild the Residence, the Owner shall remove all remaining Improvements and debris and sod the Lot. In such event, all obligations for maintenance of landscaping on the part of Owner shall remain in effect. In the event a damaged Residence is not rebuilt, repaired or restored within a reasonable time, as determined by the Board of Directors, the Association shall have the right to remove all remaining Improvements, sod and maintain the Lot, and levy a Lot Assessment for the cost of such removal, sodding and/or maintenance.

X. ASSOCIATION LIABILITY

A. Disclaimer of Liability. Notwithstanding anything contained in this Declaration, the Articles or Bylaws, or in any other document governing or binding the Association (collectively, the "Association Documents"), neither Developer nor the Association shall be liable or responsible for, or shall be deemed in any manner a guarantor or insurer of, the health, safety or welfare of any user of any portion of the Property, including, without limitation, Owners, their families, guests, invitees, licensees, agents, employees, servants, contractors, subcontractors, occupants or tenants, nor for any property of such persons.

B. Specific Provisions. Without limiting the generality of the foregoing,

1. It is the express intent of the Association Documents that the various provisions thereof which are enforceable by the Association and which govern and regulate the use of the Property have been drafted and are to be interpreted and enforced for the sole purpose of enhancing and maintaining the enjoyment of the Property and the value thereof.
2. Neither Developer nor the Association is empowered, nor have they been created, to act as an entity which enforces or insures compliance with the laws of the United States of America, the State of Florida, the County or any other jurisdiction, or to prevent tortious or criminal activities.
3. The provisions of the Association Documents setting forth the uses of Assessments which may relate to health, safety or welfare shall be attributed and implied only as limitations on the usage of such funds, and not as creating an obligation of the Association or Developer to protect the health, safety or welfare of any persons.

C. Owner Covenant. Each Owner, for himself/herself and his/her heirs, legal representatives, successors and assigns (by virtue of his/her acceptance of title to a Lot), and every other person or entity having an interest in or a lien upon, or making use of, any portion of the Property (by virtue of accepting such interest or lien or making use thereof), shall be bound by this Article and shall be deemed to automatically waive all rights, claims, demands and causes of action against the Association and/or Developer arising from or connected with any act or omission disclaimed hereunder, and further covenants not to bring any legal action against the Developer or the Association in connection with the performance of their lawful duties and obligations.

XI. ANNEXATION OF ADDITIONAL PROPERTY

A. Annexation. The Developer, for so long as it owns any portion of the Property, shall have the right, but not the obligation, from time to time and in its sole discretion, without the consent or joinder of the Association, Owners or Mortgagees, to annex to the Property and to include any Additional Property within this Declaration.

B. Association Annexation. At such time as Developer no longer owns any portion of the Property, the Association may annex Additional Property with the approval of two-thirds ( $\frac{2}{3}$ ) of the votes of the Board of Directors and with the consent of the owner(s) of the Additional Property to be annexed.

C. Supplemental Declarations. Any such additions to the Property authorized above shall be made by the filing of record of one or more Supplemental Declarations. With respect to Additional Property annexed by the Developer, the Supplemental Declaration need only be executed by the Developer. In the case of Additional Property to be annexed by the Association, the Supplemental Declaration shall be executed by the President of the Association and the owner(s) of the land(s) to be subjected, if not the Association, and shall state that such annexation is in accordance with a resolution passed by the Association in accordance with the terms of this Declaration. A Supplemental Declaration shall contain a statement that the real property that is the subject of the Supplemental Declaration constitutes Additional Property which is to become a part of the Property subject to this Declaration. In addition, the Supplemental Declaration may contain additional covenants and restrictions for such Additional Property, provided that such covenants and restrictions are consistent with and no less restrictive than those contained herein.

D. Effect of Annexation. In the event that any Additional Property is annexed to the Property pursuant to the provisions of this Article, then such Additional Property shall be considered within the definition of Property for all purposes of this Declaration, and each Owner of a Lot or Residence therein shall be a Class A Member and shall be entitled to one (1) vote per Lot and shall be obligated to pay all Assessments due in connection therewith; provided, however, Developer shall be a Class B Member for Additional Property that Developer owns and subjects to this Declaration.

E. Withdrawal. Developer may at any time while it owns any portion of the Property, in its sole discretion, withdraw any portion of the Property from this Declaration that has not been made subject to a Plat, by recording in the public records a declaration of withdrawal of any such Property.

## XII. GLEN KERNAN GOLF & COUNTRY CLUB

A. Ownership and Use of Golf Club Facilities. All persons, including Owners, are hereby advised that no representations or warranties are or have been made by the Developer, the Golf Club or any other person or entity with regard to membership in or the present or continuing ownership or operation of the Golf Club. Further, the ownership and/or operational duties of the Golf Club may change at any time, and from time to time, at the sole and absolute discretion of the Golf Club, by virtue of, but without limitation, (a) the sale or assumption of operations of the Golf Club to or by an independent person or entity, (b) the conversion of the Golf Club's membership structure to an "equity" club or similar arrangement whereby the members of the Golf Club or entities owned or controlled thereby become the owners or operators of the Golf Club, (c) conveyance, pursuant to contract, option or otherwise, of the Golf Club to one or more affiliates, shareholders, employees or independent contractors of Developer, or (d) the conveyance of the Golf Club to the Association, upon its consent, with or without consideration, and subject to or free and clear of mortgages or other encumbrances. In

connection with any such transfer, no consent of any Owner shall be required. **NEITHER THE OWNERS NOR THE ASSOCIATION SHALL HAVE ANY RIGHT, TITLE OR INTEREST IN THE GOLF CLUB BY VIRTUE OF THEIR OWNERSHIP OF A LOT OR PROPERTY, OR ANY PROVISION OF THIS DECLARATION, THE ARTICLES OR THE BYLAWS.**

B. Rights of Golf Club Members. The owner, mortgagees and members of the Golf Club (irrespective of whether such members are Owners hereunder), their successors, assigns, employees, invitees, licensees, agents, contractors and designees shall at all times have a right and non-exclusive easement of access and use over the Common Property as is necessary and convenient to travel to and from the entrance of the Property to the Golf Club's facilities and such other portions of the Property as are necessary and convenient for the use, operation, maintenance, repair and replacement of the Golf Club's facilities. Without limiting the generality of the foregoing, members of the Golf Club and permitted guests and invitees shall have the right to park their vehicles on designated portions of the Common Property at reasonable times before, during and after tournaments and other approved functions at the Golf Club. The Golf Club shall not be subject to the architectural control or other requirements hereof and is an intended beneficiary of the relevant terms and provisions of this Declaration.

C. Architectural Control. Neither the Developer, Association nor the ARB shall approve or permit any construction, addition, alteration, change or installation on or to any portion of the Property which is adjacent to or otherwise in the direct line of sight from the Golf Club's facilities without giving the Golf Club at least fifteen (15) days prior notice of their intent to approve or permit the same, together with copies of the request therefor and all other documents and information finally submitted. The Golf Club shall then have fifteen (15) days in which to voice approval or disapproval, which opinion shall be given great weight by the ARB in the final approval decision. The failure of the Golf Club to respond to the aforesaid notice within the fifteen (15) day period shall constitute a waiver of the Golf Club's right to object to the matter so submitted. This Section shall also apply to any work on the Common Property that is visible from the Golf Club.

D. Limitations on Amendments. In recognition of the fact that the provisions of this Article are for the benefit of the Golf Club, no amendment to this Article and no amendment in derogation hereof to any other relevant provisions of this Declaration may be made without the written approval thereof by the owner(s) of the Golf Club or, in the case of a corporate owner, by its board of directors. The foregoing shall not apply, however, to amendments to the Declaration made by the Developer.

E. Cooperation. It is Developer's intention that the Association and the Golf Club shall cooperate to the maximum extent possible in the operation of the Property and the Golf Club.

### XIII. GENERAL PROVISIONS

A. Duration. This Declaration, as amended and supplemented from time to time, shall run with and bind the Property, including the Lots and Common Property, and shall inure to the benefit of and be binding upon Developer, the Association, the Owners and their respective legal representatives, heirs, successors or assigns, for a term of thirty (30) years

from the date this Declaration is recorded in the public records of the County, after which time all of said provisions shall be extended automatically for successive periods of ten (10) years each, unless, at any time during such extended period, an instrument (or instruments) signed by the then Owners of seventy five percent (75%) of the Lots subject to this Declaration is recorded in the public records of the County, agreeing to terminate all of said provisions as of a specified date. Unless this Declaration is terminated as provided above, the Association shall rerecord this Declaration or other notice of its terms at intervals necessary under Florida law to preserve its effect.

B. Condemnation. In the event all or part of the Common Property owned by the Association shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages shall be paid to the Association. The Board of Directors shall have the right to act on behalf of the Association with respect to the negotiation and litigation of the taking or condemnation affecting the Common Property or portion thereof. The Owners holding seventy five percent (75%) of the votes shall agree to the distribution of the proceeds of any condemnation or taking by eminent domain, and if the Owners shall not so agree, such proceeds shall be added to the funds of the Association.

C. Notices. Any notice required to be sent to the Owner of any Lot under the provisions of this Declaration shall be deemed to have been properly sent when hand delivered or mailed, postage prepaid, to the Lot or to the last known address of the person who appears as Owner of such Lot on the records of the Association at the time of such mailing.

D. Enforcement of Covenants. If any person, firm, corporation, trust or other entity shall violate or attempt to violate any of the covenants or restrictions set forth in this Declaration, it shall be lawful for the Developer, the Association, the Golf Club or any Owner (a) to pursue prosecution for the recovery of damages against those so violating or attempting to violate any such covenant or restriction, or (b) to maintain a proceeding in any court of competent jurisdiction against those so violating or attempting to violate any such covenant or restriction for the purpose of preventing or enjoining all or any such violations or attempted violations. In addition to all other remedies, the Board of Directors shall have the authority, in its sole discretion, to impose a fine or fines upon any Owner for failure of the Owner, his/her family, guests, invitees, licensees, agents, employees, tenants or occupants to comply with any covenant, restriction, rule or regulation contained in this Declaration, the Articles or the Bylaws, provided the following procedures are adhered to:

1. The Association shall notify the Owner/occupant of the infraction(s) and the date and time of a meeting to hear and discuss such infraction, which shall be at least fourteen (14) days from the date of notice. The Owner shall meet with a committee appointed by the Board of Directors, which committee shall be composed of three (3) Owners who are not officers, Directors or employees of the Association.
2. At such meeting, the committee shall be presented with the infraction(s) and shall give the Owner/occupant the opportunity to present reasons why penalties should not be imposed. A written decision of the committee shall

be provided to the Owner/occupant within twenty-one (21) days after the date of the meeting.

3. If approved by the committee, the Board of Directors may impose fines against the applicable Lot of up to Two Hundred Dollars (\$200.00) per incident, except as otherwise provided for hereunder. The maximum permitted fine may be increased from time to time by the Board of Directors, as permitted by applicable statutes.
4. Each incident which is grounds for a fine shall be the basis for a separate fine. In the case of continuing violations, each continuation after notice and a hearing is given shall be deemed a separate incident.
5. Fines shall be paid within thirty (30) days after the receipt of notice of their imposition.
6. All monies received from fines shall be allocated as directed by the Board of Directors.
7. The imposition of a fine shall not be an exclusive remedy and shall exist in addition to all other rights and remedies to which the Association may otherwise be entitled, including without limitation, the right to impose a Lot Assessment; however, any fine paid by the Owner/occupant shall be deducted from or offset against any damages which the Association may otherwise be entitled to recover by law from such Owner/occupant. The limitations on fines in this paragraph do not apply to suspensions or fines arising from failure to pay Assessments.
8. The remedies contained in this Section shall be construed as cumulative of all other remedies now or hereinafter provided by law. The failure of Developer, the Association, the Golf Club or of any Owner or their respective successors or assigns, heirs, or personal or legal representatives to enforce any covenant, restriction, obligation, right, power, privilege, authority or reservation herein contained, however long continued, shall not be deemed a waiver of the right to enforce the same thereafter as to the same breach or violation, or as to any other breach or violation occurring prior or subsequent thereto.

E. Interpretation. Unless the context expressly requires otherwise, the use of the singular includes the plural and vice versa; the use of genders includes both genders; the use of the terms "including" or "include" is without limitation and the use of the terms "will", "must" and "should" shall have the same effect as the use of the term "shall". Wherever any time period is expressed in days, if such time period ends on a Saturday, Sunday, or legal holiday, it shall be extended to the next succeeding calendar day that is not a Saturday, Sunday or legal holiday. The terms "Lot" and "Property" mean all or any portion applicable to the context, and include all Improvements, fixtures, trees, vegetation and other property from time to time situated thereon, and the benefit of all appurtenant easements. The terms of this Declaration shall be liberally

construed in favor of the party seeking to enforce its provisions to effectuate such party's purpose of protecting and enhancing the value, marketability and desirability of the Property by providing a uniform and consistent plan for the development and enjoyment thereof. Headings and other textual divisions are for convenience only and are not to be used to interpret, construe, apply or enforce any substantive provisions. The provisions of this subparagraph apply also to the interpretation, construction, application, and enforcement of all the Association Documents.

F. Invalidity. The invalidity of any part of this Declaration shall not impair or affect in any manner the validity, enforceability, or effect of the balance of the Declaration which shall remain in full force and effect.

G. Rules and Regulations. All Owners shall comply with this Declaration and the rules and regulations adopted and amended from time to time by the Board of Directors and the ARB. Such rules and regulations shall be enforced in the same manner as the provisions of this Declaration. Such rules and regulations shall be for the purpose of elaboration and administration of the provisions of this Declaration, shall relate to the overall development of the Property, and shall not in any way diminish the powers of self-government of the Association.

H. Litigation. No judicial or administrative proceedings shall be commenced or prosecuted by the Association unless the same is approved by a vote or written consent of the Owners of seventy five percent (75%) of the Lots subject to this Declaration. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration or duly adopted rules and regulations (including, without limitation, foreclosure of lien), (b) imposition of Assessments as provided herein, (c) proceedings involving challenges to taxation, or (d) defenses or counterclaims brought by the Association in proceedings instituted against it. Notwithstanding the provisions of this Section, this Section shall not be amended unless such Amendment is approved by Developer for so long as Developer owns any portion of the Property, or is approved by the percentage vote pursuant to the same procedures as are necessary to institute proceedings as provided above.

I. Amendment. This Declaration may be amended at any time by an instrument signed by the President or Vice President and the Secretary or Assistant Secretary of the Association, certifying that such amendment has been adopted by the written consent of seventy five percent (75%) of the Class A Members or upon a seventy five percent (75%) vote of the Class A Members voting in person or by proxy at a regular Association meeting or a special meeting called for that purpose at which there is a quorum, which amendment shall become effective upon its filing in the public records of the County. Provided, however, that:

1. As long as Developer is an Owner of any Lot, no amendment shall become effective without the written consent of Developer, which consent may be withheld in its sole discretion.
2. Developer specifically reserves the absolute and unconditional right, so long as it owns any of the Property, to amend this Declaration without the consent or joinder of any party (i) to conform to the requirements of any



holder of a Mortgage; (ii) to conform to the requirements of title insurance companies; (iii) to conform to the requirements of any governmental entity having control or jurisdiction over the Property; (iv) to clarify the provisions of this Declaration; (v) to subject Additional Property to the terms and conditions of this Declaration, or (vi) in such other manner as Developer may deem necessary or convenient.

Amendments to the Articles and Bylaws shall be made in accordance with the requirements of the Articles and Bylaws and need not be recorded in the public records of the County.

J. Rights of Mortgagees. All Mortgagees shall have the following rights:

1. During normal business hours, and upon reasonable notice and in a reasonable manner, to inspect current copies of the Association Documents and the books, records and financial statements of the Association.
2. Upon written request to the Secretary of the Association, to receive copies of the annual financial statements for the immediately preceding fiscal year of the Association; provided, however, the Association may make a reasonable, uniform charge to defray the costs incurred in providing such copies.
3. To designate a representative to attend all meetings of the Members of the Association, who shall be entitled to a reasonable opportunity to be heard in connection with any business brought before such meeting, but in no event shall be entitled to vote thereon.
4. Upon written notice to the Secretary of the Association and upon payment to the Association of any reasonable, uniform annual fee established from time to time by the Association to defray its costs, to receive (i) any notice that is required to be given to the Class A Members under any provision of the Association Documents; (ii) written notice of any condemnation or casualty loss affecting a material portion of the Property or any Lot encumbered by its Mortgage; (iii) any sixty (60) day delinquency in the payment of Assessment Charges imposed upon any Lot encumbered by its Mortgage; (iv) the lapse, cancellation or material modification of any insurance coverage or fidelity bond maintained by the Association; and (v) any proposed action requiring the consent of a specified percentage of Mortgagees.

K. Legal Fees and Costs. The prevailing party in any dispute arising out of the subject matter of this Declaration or its subsequent performance shall be entitled to reimbursement of its costs and attorney's fees, whether incurred before or at trial, on appeal, in bankruptcy, in post-judgment collection or in any dispute resolution proceeding, and whether or not a lawsuit is commenced.

L. Law to Govern. This Declaration shall be governed by and construed in accordance with the laws of the State of Florida.

M. Tax Deeds and Foreclosure. All provisions of the Declaration relating to a Lot which has been sold for taxes or special assessments shall survive and are enforceable after the issuance of a tax deed or upon a foreclosure of an Assessment, a certificate of lien, a tax deed, tax certificate or tax lien to the same extent that they would be enforceable against a voluntary grantee of title before such transfer.

**IN WITNESS WHEREOF**, the undersigned has caused this Declaration to be executed in its name, the day and year first above written.

Signed, sealed and delivered in the presence of:

**HODGES BLVD. DEVELOPMENT GROUP, INC.**,  
a Florida corporation

Kernan R. Hodges  
Print Name KERNAN R. HODGES

By: [Signature]  
George H. Hodges, Jr.  
Its President

[Signature]  
Print Name JOHN R. CATHEY

(Corporate Seal)



STATE OF FLORIDA  
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 27th day of January, 1997, by George H. Hodges, Jr., as the President of Hodges Blvd. Development Group, Inc., a Florida corporation, for and on behalf of the corporation. He is personally known to me.



"OFFICIAL SEAL"  
John R. Cathey  
My Commission Expires 6/19/97  
Commission #CC 204854

[Signature]  
JOHN R. CATHEY, Notary Public, State of Florida  
My commission expires:  
Commission No.:

DIVISION OF CORPORATIONS  
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**ARTICLES OF INCORPORATION  
OF  
GLEN KERNAN HOMEOWNERS' ASSOCIATION, INC.**

The undersigned, acting as the sole incorporator under the laws of the State of Florida, Chapter 617, Florida Statutes, applicable to not-for-profit corporations, does hereby adopt the following Articles of Incorporation (the "Articles"):

**ARTICLE ONE**

The name of the corporation shall be Glen Kernan Homeowners' Association, Inc. (the "Association").

**ARTICLE TWO**

The initial principal office and the mailing address of the Association shall be Post Office Box 19282, Jacksonville, Florida 32245.

**ARTICLE THREE**

The specific purposes for which the Association is organized are:

- (a) To exist and operate solely as a commercial real estate management association exempt from income taxes to the extent provided under Section 528 of the Internal Revenue Code of 1986, as amended (the "Code");
- (b) To fulfill the obligations set forth in the Declaration of Covenants, Conditions, Restrictions and Easements for Glen Kernan (the "Declaration"), including, but not limited to, the construction, management, maintenance, and preservation of the common areas, including the Surface Water or Stormwater Management System, and care of Association property;
- (c) To levy and collect adequate assessments against Association members (the "Members") and to use and expend the proceeds of assessments and borrowings in a manner consistent with the purposes for which this Association is formed, including, without limitation, the operation or maintenance of the common areas and the Surface Water or Stormwater Management System;
- (d) To make, amend, impose and enforce by any lawful means reasonable rules and regulations for use of the common areas and Association property;
- (e) To contract for services with others;

(f) To do and perform anything required by these Articles, the Bylaws of Glen Kernan Homeowners' Association, Inc. (the "Bylaws"), or the Declaration, but not if done by the Member in a timely manner, at the expense of the Member; and

(g) To do and perform any obligations imposed upon the Association by the Declaration or by any permit or authorization from any unit of local, regional, state, or the federal government and to enforce, by any legal means, the provisions of the Articles, the Bylaws or the Declaration.

(h) To operate, maintain and manage the Surface Water or Stormwater Management System in a manner consistent with the St. Johns River Water Management District permit number 4-031-0559A-ERP requirements and applicable District rules, and to assist in the enforcement of the restrictions and covenants contained herein.

#### ARTICLE FOUR

The Association shall have and exercise all powers of any corporation not-for-profit as the same now exist, or may hereafter exist under the laws of the State of Florida. No part of the net earnings of this corporation (other than by acquiring, constructing or providing management, maintenance and care of Association property and other than by a rebate of excess membership dues, fees or assessments) shall be distributable to, or inure to the benefit of, its Members, Directors or officers or any private individual, except that the Association shall be authorized and empowered to pay reasonable compensation to its employees for services rendered and to make payments and distributions in the furtherance of the purposes set forth herein.

#### ARTICLE FIVE

Membership shall commence as set forth in the Declaration and Bylaws. Every person who is, from time to time, the record owner of property subject to the Declaration shall be a Member. The voting rights of the Members shall be governed by the Declaration and the Bylaws.

#### ARTICLE SIX

The name and street address of the initial registered agent of the Association is Smith Hulsey & Busey, 225 Water Street, Suite 1800, Jacksonville, Florida 32202.

**ARTICLE SEVEN**

The Board of Directors ("Board") shall consist of at least three (3) Members ("Directors") or such other number as hereafter is required by Section 617.0803, Florida Statutes, or any subsequent statute regarding the number of directors of a not-for-profit corporation. The initial Directors shall be selected by the Incorporator to serve until the first annual meeting of the Members. Subsequently, the method of selection or election shall be as stated in the Bylaws.

**ARTICLE EIGHT**

The name and address of the sole Incorporator to the Articles is E. Owen McCuller, Jr., 225 Water Street, Suite 1800, Jacksonville, Florida 32202.

**ARTICLE NINE**

Every Director and officer of the Association and every Member serving the Association at its request shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees and appellate attorneys' fees, reasonably incurred by or imposed upon him in connection with any proceeding or any settlement of any proceeding to which he may be a party or in which he may become involved by reason of his being or having been a Director or officer of the Association or by reason of his serving or having served the Association at its request, whether or not he is a Director or officer or is serving at the time the expenses or liabilities are incurred; provided that in the event of a settlement before entry of judgment, the indemnification shall apply only when the Board approves the settlement and reimbursement as being for the best interests of the Association. The foregoing right of indemnification shall be in addition to and not in lieu of any and all other rights to which that person may be entitled but shall be limited by the applicable law and specifically shall not include acts of gross negligence or willful misconduct.

**ARTICLE TEN**

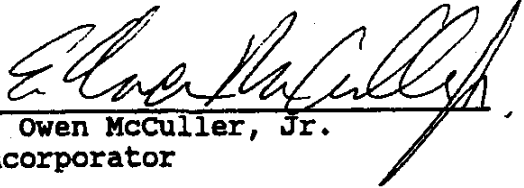
In the event of termination, dissolution or final liquidation of the Association, its assets shall be dedicated to a public body, or conveyed to a nonprofit organization with similar purposes. In the event of termination, dissolution or final liquidation of the Association, the responsibility for the operation and maintenance of the Surface Water or Stormwater Management System must be transferred to and accepted by an entity which would comply with Section 40C-42.027, F.A.C., and be approved by the St. Johns River

Water Management District prior to such termination, dissolution or liquidation.

**ARTICLE ELEVEN**

Any alteration, amendment or repeal of the Bylaws or Articles shall require a vote of a majority of the Members. The Bylaws may contain any provisions for the regulation and management of the affairs of the Association consistent with the law or with the Articles.

9th IN WITNESS WHEREOF, I have hereunto set my hand and seal this day of December, 1996.

  
\_\_\_\_\_  
E. Owen McCuller, Jr.  
Incorporator

# EXHIBIT "B"

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**BYLAWS  
OF  
GLEN KERNAN HOMEOWNERS' ASSOCIATION, INC.**

**ARTICLE I**

**IDENTITY**

These are the Bylaws of Glen Kernan Homeowners' Association, Inc., a Florida not-for-profit corporation (hereinafter called the "Association"), under the laws of the State of Florida, the Articles of Incorporation of which were filed in the office of the Secretary of State on December 10, 1996.

The Association has been organized for the purpose of performing the functions outlined in the Declaration of Covenants, Conditions, Restrictions and Easements as may be recorded for Glen Kernan (hereinafter called the "Declaration"), a subdivision located in Duval County, Florida (the "Subdivision").

The Members of the Association ("Members" or "Membership") shall be all lot owners in the Subdivision, as more particularly defined in the Declaration.

Initially, the office of the Association shall be at Post Office Box 19282, Jacksonville, Florida 32245, but may be changed from time to time, and meetings of Members and Directors may be held at such places within the State of Florida as may be designated by the Board.

The fiscal year of the Association shall be the calendar year.

**ARTICLE II**

**MEMBERS MEETINGS**

A. Annual Meeting. An annual meeting of its Members shall be held each calendar year at a time, date and place determined by the Board of Directors (the "Board").

B. Special Meetings. Special meetings of the Members shall be held whenever called by a majority of the Board, and must be called by the Board upon receipt of a written request from Members entitled to cast one-third (1/3) of the votes of the entire Membership. At a special meeting of the Members, the Association may only conduct that business and address those matters that were stated in the notice of the special meeting to be the purpose thereof.

C. Notices. Notice of all Members' meetings stating the time and place and the purpose for which the meeting is called shall be given by the President or Vice-President or Secretary unless waived in writing by all of the Members. Such notice shall be in writing to each Member at his address as it appears on the books of the Association and shall be mailed or delivered within seven (7) days of the meeting. Proof of such mailing shall be given by the affidavit of the person giving the notice.

D. Quorum. A quorum at Members' meetings shall be twenty five (25) percent of the entire Membership entitled to vote at the meeting.

E. Voting Rights. The voting rights of the Members shall be as specified in the Declaration.

F. Proxies. Votes may be cast in person or by proxy. A proxy must be dated, must state the date, time and place of the meeting for which it was given, must be signed by the authorized person who executed the proxy and must be filed with the Secretary before the appointed time of the meeting or any adjournment of the meeting. A proxy is effective only for the specific meeting for which it was originally given and automatically expires 90 days after the date of the meeting for which it was originally given or upon conveyance by the Member of his lot, whichever occurs first. A proxy is revocable at any time.

G. Adjourned meetings. Meetings shall be adjourned to a different date, time or place by announcement at the meeting before an adjournment is taken, or by notice of the new meeting given in accordance with Article IV (D) of these Bylaws.

H. Written Consent and Joinder. In the event that any action is authorized to be taken by the Members at a meeting, it shall be permissible to approve such action by a written consent and joinder by the proportion of Members required to approve such action; provided, however, that notice of this Associations' intent to seek written consent and joinder shall be sent to all Members in accordance with the notice provision of Article II (C) herein.

I. Proviso. Provided, however, that until the Developer (Class B Member) of the Subdivision ("Developer") has completed all of the contemplated improvements and terminates its control of the Association as provided in the Declaration, the proceedings of all meetings of Members of the Association shall have no effect unless approved by the Board, which approval shall not be unreasonably withheld.



ARTICLE IIIDIRECTORS

A. Governing Body. The affairs of the Association shall be governed by the Board. Except as provided in paragraph B of this Article, the members of the Board of Directors ("Directors") must be owners and reside in the Subdivision.

B. Directors Appointed by Developer. The Directors shall be selected by the Developer acting in its sole discretion and shall serve at the pleasure of the Developer, so long as the Class B Membership exists as set forth in the Declaration, unless the Developer shall earlier surrender this right to select Directors. The Directors selected by the Developer need not be Owners or residents in the Subdivision. The initial Directors of the Association shall be elected by the Incorporator at the direction of the Developer.

C. Number. The Board shall initially consist of three (3) Directors. After the Class B Membership ceases, the Board shall consist of no less than three Directors who shall be elected by the Membership at large at the annual meetings.

D. Term. The term of office of any Directors elected by Class A Members shall be the calendar year following such Director's election and subsequently until a successor is duly elected and qualified or until removed in the manner elsewhere provided.

E. Removal. Any Director elected by the Class A Members may be removed from the Board, with or without cause, by a majority vote of the Class A Members of the Association. In the event of death, resignation or removal of a Director, a successor shall be selected by the remaining Directors and shall serve until the next annual meeting of the Members.

F. Compensation. No Directors shall receive compensation for any service he may render to the Association. However, a Director may be reimbursed for actual expenses incurred in the performance of duties.

G. Election. Election to the Board shall be held by secret written ballot. At such election, the Class A Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The person receiving the largest number of votes shall be elected. Cumulative voting shall not be permitted.

H. Proviso. The Developer shall have veto power on any act of the Board which affects the marketability of any units still owned by the Developer.

ARTICLE IVMEETINGS OF DIRECTORS

Directors appointed by Class B Member:

A. The Board's meetings shall be scheduled by the Directors at their discretion.

Directors elected by Class A Members:

A. Organizational Meeting. The first meeting of the Members of a newly elected Board shall be held within ten (10) days of their election at such place and time as shall be fixed by the Directors at the meeting at which they were elected, and no further notice of the organizational meeting shall be necessary.

B. Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the Directors.

C. Special Meetings. Special meetings of the Board may be called by the President and must be called by the Secretary at the written request of one-third (1/3) of the Directors. Not less than three (3) days notice of the meeting shall be given personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting.

D. Notice. Notices of all Board meetings shall be (i) posted in a conspicuous place in the community at least forty eight (48) hours in advance of a meeting or (ii) mailed or delivered to each Member at least seven (7) days before the meeting or (iii) mailed or delivered to each Member by use of a schedule of Board meetings. An assessment may not be levied at a Board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of the assessments and if the meeting is otherwise conducted in accordance with the Declaration.

E. Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting and such waiver shall be deemed equivalent to the giving of notice.

F. Quorum. A quorum at a Board meeting shall consist of a majority of the entire Board. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board, except when approval by a greater number of Directors is required by the Articles of Incorporation, the Declaration, or these Bylaws.

G. Adjourned Meetings. If at any meeting of the Board there be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting, any business that might have been transacted at the meeting as originally called may be transacted without further notice.

H. Action Taken Without A Meeting. The Board may take any action without a meeting which it could take at a meeting by obtaining the written consent and joinder of all Directors. Any action so taken shall have the same effect as though taken at a meeting of the Directors.

I. Joinder in Meeting By Approval of Minutes. The joinder of a Director in the action of a Board meeting by signing and concurring in the minutes of that meeting shall constitute the presence of such Director for the purpose of determining a quorum.

J. Presiding Officer. The presiding officer at a Board meeting shall be the Chairman of the Board if such an officer has been elected; and, if none, the President shall preside. In the absence of the presiding officer, the Directors present shall designate one of their number to preside.

#### ARTICLE V

#### POWER AND DUTIES OF BOARD

Subject to the provisions of the Declaration, the Board shall have the following powers and duties:

A. Exercise of all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions in the Declaration or Articles of Incorporation;

B. Declare the office of a member of the Board to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board;

C. Employ a manager, an independent contractor, or such other employees as the Board deems necessary, prescribe the duties and compensation of any such employee, and provide for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties;

D. Prepare and adopt an annual budget in which there shall be established the contribution of each Owner to the common expenses, subject to the provisions in the Declaration, and provide each Member with a copy of the annual budget or with written notice that a copy of the budget is available upon request and at no charge to the Member;

E. Make assessments to defray the common expenses, establish the means and methods of collecting such assessments, and establish the period of the installment payments of the annual assessment, send written notice of each assessment to every Member subject thereto, and to file and foreclose liens against any property for which assessments are not paid, all as provided in the Declaration;

F. Provide for the operation, care, upkeep and maintenance of all areas which are the maintenance responsibility of the Association, all as set forth in and in accordance with the Declaration;

G. Collect the assessments, deposit the proceeds thereof in a bank depository which it shall approve, and use the proceeds to administer the Association;

H. Open bank accounts on behalf of the Association and designate the signatories required;

I. Enforce by legal means the provisions of the Declaration and these By-Laws, and bring any proceedings which may be instituted on behalf of or against the Members concerning the Association;

J. Pay the cost of all services rendered to the Association and designate the signatories required;

K. Keep books with detailed accounts of the receipts and expenditures affecting the Association and its administration, and specify the maintenance and repair expenses and any other expenses incurred, which books and records shall be open for inspection by any of the Members at reasonable times and places within ten (10) business days of a written request for access. The Association may charge its actual costs for reproducing and furnishing copies of such books and records. The Association shall also provide each Member with a copy of the annual financial report or with written notice that a copy of the report is available upon request and at no charge to the Member;

L. Contract with any person or entity for the performance of various duties and functions, all as permitted by the applicable law;

M. Supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;

N. Cause any or all officers or employees having fiscal responsibilities to be bonded, as the Board may deem appropriate;

O. To present to the Members at the annual meeting, or at any special meeting when such statement is requested in writing by

one-fourth (1/4) of the Class A Members who are entitled to vote, a statement of all acts and corporate affairs;

P. To oversee the common areas, enforce rules and regulations, and perform such other duties relating to the common areas as may be necessary from time to time.

#### ARTICLE VI

##### OFFICERS AND THEIR DUTIES

A. Enumeration of Officers. The officers of this Association shall be a President, a Vice-President, a Secretary, and a Treasurer, and such other officers as the Board may from time to time by resolution create. The President and Treasurer shall be elected from among the Members of the Board.

B. Election of Officers. Until termination of the Class B Membership, officers shall be appointed by the Board and shall serve at the pleasure of the Board. Thereafter, the election of officers shall take place at the first meeting of the Board following each annual meeting of the Members.

C. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless sooner removed or otherwise disqualified to serve.

D. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

E. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

F. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the vacancy.

G. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Paragraph D of this Article.

H. Duties. The duties of the officers are as follows:

President

The President shall be the chief executive officer of the Association. He shall have all of the powers and duties usually vested in the office of President of an association, including but not limited to the power to appoint committees from among the Members from time to time as he, in his discretion, may determine appropriate to assist in the conduct of the affairs of the Association. He shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

Vice-President

The Vice-President shall act in the place and stead of the President in the event of the President's absence or inability to act, shall assist the President generally, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary

The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the Association, and perform such other duties as required by the Board.

Treasurer

The Treasurer shall receive and deposit in appropriate bank accounts all funds of the Association and shall disburse such funds as directed by resolution of the Board; shall co-sign all checks and promissory notes of the Association; keep proper books of accounts; upon request of the Board, cause an annual audit of the Association books to be made by a certified public accountant at the completion of each fiscal year; and prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the Members.

In addition, the Treasurer shall, when requested on behalf of any Member, furnish a certificate setting forth whether or not the assessments on a specified lot have been paid, which certificate shall be binding upon the Association as of the date of its issuance, as provided in the Declaration.

# EXHIBIT "B"

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## ARTICLE VII

### COMMITTEES

The Association may appoint an Architectural Review Board to exercise the rights of the Developer and the Association under Article VII of the Declaration and such other committees as deemed appropriate in carrying out its purpose. Committee meetings shall be conducted in accordance with the provisions of Article IV of these Bylaws governing meetings of the Board.

## ARTICLE VIII

### REIMBURSEMENT AND INDEMNIFICATION OF DIRECTORS AND OFFICERS

The Association shall indemnify and hold harmless each person who shall serve at any time as a Director or officer of the Association from and against any and all claims and liabilities to which such person shall or may become subject by reason of having heretofore or hereafter been a Director or officer of the Association, or by reason of any action alleged to have been heretofore or hereafter taken or omitted as such Director or officer, and shall reimburse each such person for all legal and other expenses reasonably incurred in connection with any such claim or liability, except that no such person shall be indemnified against or be reimbursed for any expense incurred in connection with any claim or liability which shall be finally adjudged to have arisen out of his own gross or willful negligence or misconduct. The rights accruing to any person under the foregoing provisions of this Article shall not exclude any other right to which he lawfully may be entitled nor shall anything herein contained restrict the right of the Association to indemnify or reimburse such person in any proper case even though not specifically provided for herein. The Association, its Directors, officers, employees, and agents shall be fully protected in taking any action or making any payment under this Article, or in refusing so to do, in reliance upon the advice of counsel.

## ARTICLE IX

### AMENDMENTS

These By-Laws may be amended as provided in the Articles of Incorporation or any amendment thereto.