Doc # 2006033498, OR BK 13039 Page 1171, Number Pages: 60, Filed & Recorded 01/27/2006 at 02:32 PM, JIM FULLER CLERK CIRCUIT COURT DUVAL COUNTY RECORDING $511.50

DECLARATION OF COVENANTS AND RESTRICTIONS

OF

KENDALL POINTE

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RECORD AND RETURN TO:
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DECLARATION OF COVENANTS AND RESTRICTIONS

OF

KENDALL POINTE

This DECLARATION includes the following Exhibits:

Exhibit "A" -	Legal Description of the SUBJECT PROPERTY
Exhibit "B" -	Articles of Incorporation of TOWNHOMES OF KENDALL POINTE HOMEOWNERS ASSOCIATION, INC.
Exhibit "C" -	Bylaws of TOWNHOMES OF KENDALL POINTE HOMEOWNERS ASSOCIATION, INC.

THIS DECLARATION OF COVENANTS AND RESTRICTIONS OF KENDALL POINTE is made this 4TH day of JANUARY 2006, by EH/TRANSEASTERN, LLC, a Delaware limited liability company ("DECLARANT").

DECLARANT owns the property described herein, and intends to develop the property as a residential community. The purpose of this DECLARATION is to provide various use and maintenance requirements and restrictions in the best interest of the future owners of dwellings within the property, to protect and preserve the values of the property. This DECLARATION will also establish an association which may own, operate and/or maintain various portions of the property and improvements constructed within the property, will have the right to enforce the provisions of this DECLARATION, and will be given various other rights and responsibilities. The expenses of the association will be shared by the owners of the property, who will be members of the association.

NOW, THEREFORE, DECLARANT hereby declares that the SUBJECT PROPERTY, as herein defined, shall be held, sold, conveyed, leased, mortgaged, and otherwise dealt with subject to the easements, covenants, conditions, restrictions, reservations, liens, and charges set forth herein, all of which are created in the best interest of the owners and residents of the SUBJECT PROPERTY, and which shall run with the SUBJECT PROPERTY and shall be binding upon all persons having and/or acquiring any right, title or interest in the SUBJECT PROPERTY or any portion thereof, and shall inure to the benefit of each

and every person, from time to time, owning or holding an interest in the SUBJECT PROPERTY, or any portion thereof.

1. DEFINITIONS. The terms used in this DECLARATION, and in the ARTICLES and the BYLAWS, shall have the following meanings, unless the context otherwise requires:

1.1 APPROVING PARTY means DECLARANT, so long as DECLARANT owns any LOT, or until DECLARANT assigns its rights as the APPROVING PARTY to the ASSOCIATION, and thereafter means the ASSOCIATION. DECLARANT reserves the right to assign its rights as the APPROVING PARTY to the ASSOCIATION in whole or in part. Notwithstanding the foregoing, DECLARANT, and not the ASSOCIATION, shall be the APPROVING PARTY with respect to the initial construction of any improvements within the SUBJECT PROPERTY by any builder or developer.

1.2 ARTICLES means the Articles of Incorporation of the ASSOCIATION, as same may be amended from time to time.

1.3 ASSESSMENT means the amount of money which may be assessed against an OWNER for the payment of the OWNER's share of COMMON EXPENSES, and/or any other funds which an OWNER may be required to pay to the ASSOCIATION as provided by this DECLARATION, the ARTICLES or the BYLAWS.

1.4 ASSOCIATION means the corporation established pursuant to the Articles of Incorporation attached hereto as an exhibit.

1.5 BOARD means the Board of Directors of the ASSOCIATION.

1.6 BUILDING means any building contained within the SUBJECT PROPERTY from time to time. A BUILDING may contain one or more UNITS which may be connected by party walls and, in that event, the term BUILDING includes the UNITS within the BUILDING.

1.7 BYLAWS means the Bylaws of the ASSOCIATION, as same may be amended from time to time.

1.8 CONSERVATION AREAS means those portions of the SUBJECT PROPERTY designated as conservation or preservation areas on any recorded plat, which areas may include, without limitation, certain jurisdictional wetlands, river buffer transitional habitats, live oak hammocks, and developable uplands which have been restricted to be used to promote habitat conservation and preservation and to protect environmental resources within the SUBJECT PROPERTY. To the extent that any CONSERVATION AREAS are owned or maintained by the ASSOCIATION, such CONSERVATION AREAS shall be deemed to be COMMON AREAS.

1.9 COMMON AREAS means any property, whether improved or unimproved, or any easement or interest therein, which is now or hereafter (i) owned by the ASSOCIATION, (ii) dedicated to the ASSOCIATION on any recorded plat, (iii) required by any recorded plat or other recorded document to be maintained by the ASSOCIATION, (iv) declared to be a COMMON AREA by this DECLARATION, or (v) intended to be a COMMON AREA by DECLARANT. COMMON AREAS may include, but are not limited to, parks, open areas, lakes, recreational facilities, roads, entranceways, parking areas, and other similar properties, provided that the foregoing shall not be deemed a representation or warranty that any or all of the foregoing types of COMMON AREAS will be provided.

1.10 COMMON EXPENSES means all expenses of any kind or nature whatsoever incurred by the ASSOCIATION, including, but not limited to, the following:

1.10.1 Expenses incurred in connection with the ownership, maintenance, repair, improvement or operation of the COMMON AREAS, or any other property to be maintained by the ASSOCIATION as provided in this DECLARATION, including, but not limited to, utilities, taxes, assessments, insurance, operation, maintenance, repairs, improvements, and alterations.

1.10.2 Expenses of obtaining, repairing or replacing personal property in connection with any COMMON AREA or the performance of the ASSOCIATION's duties.

1.10.3 Expenses incurred in connection with the administration and management of the ASSOCIATION.

1.10.4 Any common water, sewer, trash removal, and other common utility, governmental, or similar services for the UNITS which are not separately metered or charged to the OWNERS, or which the ASSOCIATION determines to pay in common in the best interest of the OWNERS.

1.10.5 Expenses declared to be COMMON EXPENSES by the provisions of this DECLARATION, or by the ARTICLES or BYLAWS.

1.10.6 Any amounts payable by the ASSOCIATION to any other association or any governmental authority.

1.11 COMMON SURPLUS means the excess of all receipts of the ASSOCIATION over the amount of the COMMON EXPENSES.

1.12 DECLARANT means the PERSON executing this DECLARATION, or any PERSON who may be assigned the rights of DECLARANT pursuant to a written assignment executed by the then present DECLARANT recorded in the public records of the county in which the SUBJECT PROPERTY is located. In addition, in the event any PERSON obtains title to all the SUBJECT PROPERTY then owned by DECLARANT as a result of the foreclosure of any mortgage or deed in lieu thereof, such PERSON may elect to become the DECLARANT or to have any rights of DECLARANT by a written election recorded in the public records of the county in which the SUBJECT PROPERTY is located, and regardless of the exercise of such election, such PERSON may appoint as DECLARANT or assign any rights of DECLARANT to any third party who acquires title to all or any portion of the SUBJECT PROPERTY by written appointment recorded in the public records recorded in the county in which the SUBJECT PROPERTY is located. In any event, any subsequent DECLARANT shall not be liable for any actions or defaults of, or any obligations incurred by, any prior DECLARANT, except as same may be expressly assumed by the subsequent DECLARANT.

1.13 DECLARATION means this document as it may be amended from time to time.

1.14 IMPROVEMENT means any building, fence, wall, patio area, driveway, walkway, landscaping, antenna, sign, mailbox, pool, or other structure or improvement, which is constructed, made, installed, placed or developed within or upon, or removed from, any LOT, and all exterior portions of a UNIT including exterior walls, roofs, enclosures, windows, doors, shutters, awnings, gutters and other exterior portions of a UNIT, and any change, alteration, addition or removal of same other than normal maintenance and repair which does not materially alter or change the exterior appearance, condition and color of same.

1.15 INSTITUTIONAL LENDER means the holder of a mortgage encumbering a LOT, which holder in the ordinary course of business makes, purchases, guarantees, or insures mortgage loans, and which is not owned or controlled by the OWNER of the LOT encumbered. An INSTITUTIONAL LENDER may include, but is not limited to, a bank, savings and loan association, insurance company, real estate or mortgage investment trust, pension or profit sharing plan, mortgage company, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, an agency of the United States or any other governmental authority, or any other similar type of lender generally recognized as an

institutional-type lender. For definitional purposes only, an INSTITUTIONAL LENDER shall also mean the holder of any mortgage executed by or in favor of DECLARANT, whether or not such holder would otherwise be considered an INSTITUTIONAL LENDER. For definitional purposes only, an INSTITUTIONAL LENDER shall also mean the holder of any mortgage executed by or in favor of DECLARANT, or which encumbers any portion of the SUBJECT PROPERTY which is owned by DECLARANT, whether or not such holder would otherwise be considered an INSTITUTIONAL LENDER, and notwithstanding anything contained herein to the contrary, the holder of any such mortgage shall be entitled to all rights and protections granted to first mortgagees hereunder, whether or not such mortgage is a first mortgage.

1.16 LOT means any parcel of land located within the SUBJECT PROPERTY, which has been or is intended to be conveyed by DECLARANT to an OWNER and which contains or is intended to contain a UNIT, and shall include any UNIT constructed upon the LOT.

1.17 OWNER means the record owner(s) of the fee title to a LOT.

1.18 PERSON means an individual, corporation, partnership, trust, or any other legal entity.

1.19 SUBJECT PROPERTY means all of the property subject to this DECLARATION from time to time, which as of the execution of this DECLARATION is the property described in Exhibit "A" attached hereto, and includes any property that is hereafter added to this DECLARATION, and excludes any property that is hereafter withdrawn from this DECLARATION, by an amendment.

1.20 UNIT means the residential dwelling constructed upon a LOT, which may be connected to one or more UNITS by a common party wall.

2. ASSOCIATION. In order to provide for the administration of the SUBJECT PROPERTY and this DECLARATION, the ASSOCIATION has been organized under the Laws of the State of Florida.

2.1 ARTICLES. A copy of the ARTICLES is attached hereto as Exhibit "B" and is hereby made a part of this DECLARATION.

2.2 BYLAWS. A copy of the BYLAWS is attached as Exhibit "C" and is hereby made a part of this DECLARATION.

2.3 Powers of the ASSOCIATION. The ASSOCIATION shall have all of the powers indicated or incidental to those contained in its ARTICLES and BYLAWS. In addition, the ASSOCIATION shall have the power to enforce this DECLARATION and shall have all of the powers granted to it by this DECLARATION. By this DECLARATION, the SUBJECT PROPERTY is hereby submitted to the jurisdiction of the ASSOCIATION.

2.4 Approval or Disapproval of Matters. Whenever the approval, consent, or decision of the OWNERS is required for any matter pursuant to this DECLARATION, the ARTICLES, or the BYLAWS, such approval, consent, or decision shall be made by a majority of the votes of the OWNERS present in person or by proxy at a duly called meeting of the ASSOCIATION at which a quorum exists, in accordance with the ARTICLES and the BYLAWS, except for matters where a greater voting requirement is specified.

2.5 Acts of the ASSOCIATION. Unless the approval or action of the OWNERS and/or a certain specific percentage of the BOARD is specifically required by this DECLARATION, the ARTICLES or BYLAWS, or by applicable law, all approvals or actions required or permitted to be given or taken by the ASSOCIATION shall be given or taken by the BOARD, without the consent of the OWNERS, and the BOARD may so approve an act through the proper officers of the ASSOCIATION without a specific resolution. When an approval or action of the ASSOCIATION is permitted to be given or taken, such action or approval may be conditioned in any manner the ASSOCIATION deems appropriate, or the

ASSOCIATION may refuse to take or give such action or approval without the necessity of establishing the reasonableness of such conditions or refusal, except as herein specifically provided to the contrary.

2.6 Management and Service Contracts. The ASSOCIATION shall have the right to contract for professional management or services on such terms and conditions as the BOARD deems desirable in its sole discretion.

2.7 Membership. All OWNERS shall be members of the ASSOCIATION. Membership as to each LOT shall be established, and transferred, as provided by the ARTICLES and the BYLAWS.

2.8 OWNERS Voting Rights. The votes of the OWNERS shall be established and exercised as provided in the ARTICLES and BYLAWS.

2.9 In the event the ASSOCIATION is dissolved, in bankruptcy, or otherwise unable to fulfill its obligations as provided in this DECLARATION, the OWNERS shall be liable for the costs, on a pro-rata (per LOT) basis, for the maintenance, upkeep, repair and/or replacement of any and all private easements, common property, rights of way and/or improvements in the event the local municipality provides such services. This provision shall run with the land and survive the termination of the ASSOCIATION and/or this DECLARATION, and may not be amended without the consent of the city.

3. COMMON AREAS, DUTIES AND OBLIGATIONS OF THE ASSOCIATION.

3.1 Conveyance of COMMON AREAS to ASSOCIATION.

3.1.1 By DECLARANT. DECLARANT shall have the right to convey title to any property owned by it, or any easement or interest therein, to the ASSOCIATION as a COMMON AREA, and the ASSOCIATION shall be required to accept such conveyance. Any such conveyance shall be effective upon recording the deed or instrument of conveyance in the public records of the county where the SUBJECT PROPERTY is located.

3.1.2 By Any Other PERSON. Any other PERSON may also convey title to any property owned by such PERSON, or any easement or interest therein, to the ASSOCIATION as a COMMON AREA, but the ASSOCIATION shall not be required to accept any such conveyance, and no such conveyance shall be effective to impose any obligation for the maintenance, operation or improvement of any such property upon the ASSOCIATION, unless the BOARD expressly accepts the conveyance by executing the deed or other instrument of conveyance or by recording a written acceptance of such conveyance in the public records of the county in which the SUBJECT PROPERTY is located.

3.2 Use and Benefit. All COMMON AREAS shall be held by the ASSOCIATION for the use and benefit of the ASSOCIATION and the OWNERS, the residents of the SUBJECT PROPERTY, and their respective guests and invitees, the holders of any mortgage encumbering any LOT from time to time, and any other persons authorized to use the COMMON AREAS or any portion thereof by DECLARANT or the ASSOCIATION, for all proper and reasonable purposes and uses for which the same are reasonably intended, subject to the terms of this DECLARATION, subject to the terms of any easement, restriction, reservation or limitation of record affecting the COMMON AREA or contained in the deed or instrument conveying the COMMON AREA to the ASSOCIATION, and subject to any rules and regulations adopted by the ASSOCIATION. An easement and right for such use is hereby created in favor of all OWNERS, appurtenant to the title to their LOTS.

3.3 Grant and Modification of Easements. The ASSOCIATION shall have the right to grant, modify or terminate easements over, under, upon, and/or across any property owned by the ASSOCIATION, and shall have the further right to modify, relocate or terminate existing easements in favor of the ASSOCIATION.

3.4 Additions, Alterations or Improvements. The ASSOCIATION shall have the right to make additions, alterations or improvements to the COMMON AREAS, and to purchase any personal property, as it deems necessary or desirable from time to time, provided, however that the approval of the OWNERS shall be required if any recreational facility is removed or substantially and adversely affected, or for any addition, alteration, or improvement or any purchase of personal property, exceeding a sum equal to one (1) month's total ASSESSMENTS for COMMON EXPENSES payable by all of the MEMBERS, or if the cost of the foregoing shall in any fiscal year exceed in the aggregate a sum equal to two (2) months' ASSESSMENTS for COMMON EXPENSES payable by all of the OWNERS. The foregoing approval shall in no event be required with respect to expenses incurred in connection with the maintenance, repair or replacement of existing COMMON AREAS, or any existing improvements or personal property associated therewith. The cost and expense of any such additions, alterations or improvements to the COMMON AREAS, or the purchase of any personal property, shall be a COMMON EXPENSE. In addition, so long as DECLARANT owns any portion of the SUBJECT PROPERTY, DECLARANT shall have the right to make any additions, alterations or improvements to the COMMON AREAS as may be desired by DECLARANT in its sole discretion from time to time, at DECLARANT's expense.

3.5 Utilities. The ASSOCIATION shall pay for all utility services for the COMMON AREAS, or for any other property to be maintained by the ASSOCIATION, as a COMMON EXPENSE.

3.6 Taxes. The ASSOCIATION shall pay all real and personal property taxes and assessments, if any, assessed against any property owned by the ASSOCIATION, as a COMMON EXPENSE.

3.7 Default. Any OWNER or INSTITUTIONAL LENDER may pay for any utilities, taxes or assessments, or insurance premiums which are not paid by the ASSOCIATION when due, or may secure new insurance upon the lapse of an insurance policy, and shall be owed immediate reimbursement therefor from the ASSOCIATION, plus interest and any costs of collection, including attorneys' fees.

3.8 Mortgage and Sale of COMMON AREAS. The ASSOCIATION shall not encumber, sell or transfer any COMMON AREA owned by the ASSOCIATION without the approval of 2/3 of the votes of all of the OWNERS, excluding DECLARANT, provided, however, that the ASSOCIATION may dedicate any COMMON AREA to any governmental authority. Notwithstanding the foregoing, if DECLARANT changes the location of any unconveyed LOTS such that a portion of the COMMON AREA would be within a relocated LOT, then the ASSOCIATION shall have the right without the approval of the OWNERS to convey such portion of the COMMON AREAS to DECLARANT, and in connection therewith, DECLARANT shall convey to the ASSOCIATION any property which will be a COMMON AREA due to the relocation of the LOTS. If ingress or egress to any LOT is through any COMMON AREA, any conveyance or encumbrance of such COMMON AREA shall be subject to an appurtenant easement for ingress and egress in favor of the OWNER(S) of such LOT, unless alternative ingress and egress is provided to the OWNER(S).

3.9 Special Provisions Regarding Recreational Facilities. It is acknowledged DECLARANT plans to construct various recreational facilities within the SUBJECT PROPERTY, which are planned to include a swimming pool and deck, a cabana building, and various personal property associated therewith, the kind, value and nature of which shall be determined in DECLARANT's sole discretion, and DECLARANT reserves the right to increase or add to the foregoing recreational facilities, or to expand the recreational facilities, without the consent of the OWNERS or the ASSOCIATION. Notwithstanding the foregoing, DECLARANT shall have no obligation to complete the recreational facilities or to convey same to the ASSOCIATION unless and until all of the UNITS planned within the SUBJECT PROPERTY have been built and have been conveyed to purchasers.

3.10 Controlled Access Facility. It is acknowledged that a Controlled Access Facility may, but will not be required to be, constructed within the SUBJECT PROPERTY. If provided, all costs associated with any Controlled Access Facility will be a COMMON EXPENSE. DECLARANT, and any builder constructing UNITS within the SUBJECT PROPERTY, their contractors and suppliers, and their respective agents and employees, and any prospective purchasers of new UNITS, shall be given free and unimpeded access through any such Controlled Access Facility, subject only to such controls and restrictions as are agreed to in writing by DECLARANT. In addition, any governmental authority, any public utility company, and any entity providing utility services, cable television, home monitoring, internet, or other services to the OWNERS pursuant to an agreement with the COMMUNITY ASSOCIATION, shall be given free and unimpeded access through any such Controlled Access Facility, subject only to such controls and restrictions as are agreed to in writing by them. If the COMMUNITY ASSOCIATION attempts to restrict or control access into the SUBJECT PROPERTY through means not approved by the foregoing, the foregoing may take any and all measures necessary to eliminate same, including disabling any entry system during any hours desired by the foregoing, and the foregoing shall have no liability in this regard.

3.11 Termination of Common Area. In the event any portion of the SUBJECT PROPERTY which is dedicated to the ASSOCIATION on any plat is platted into a LOT pursuant to a plat or replat of the SUBJECT PROPERTY or any portion thereof recorded in the public records of the county in which the SUBJECT PROPERTY is located, same shall automatically divest the ASSOCIATION of any interest in such COMMON AREA, without the joinder or execution by the ASSOCIATION or any UNIT OWNER in the plat or any other instrument. In connection therewith, the ASSOCIATION shall have the right to execute a deed of such COMMON AREA that is replatted into a LOT to DECLARANT, or to any other person, but no such deed shall be required to divest the ASSOCIATION of its interest in such COMMON AREA which is replatted into a LOT.

3.12 Cable Television, Monitoring and other Services. The APPROVING PARTY shall have the right to enter into agreement(s) with one or more companies (a "Service Provider") to install, maintain, and provide cable television, home monitoring, internet, communication, entertainment, telephone, electricity and/or other utilities, pest control, pool maintenance, or other services to the UNITS within the SUBJECT PROPERTY, on such terms and conditions as the APPROVING PARTY may reasonably desire, provided however that the charges for services provided by any such Service Provider shall not be unreasonable compared to charges of other companies providing similar services in the county in which the SUBJECT PROPERTY is located. Any such agreement may grant the Service Provider appropriate easements and/or the right to use portions of the COMMON AREAS, as may be necessary or convenient in connection with the providing of such services. Any Service Provider may be a subsidiary or affiliate of DECLARANT or a company having the same or similar ownership and/or control as DECLARANT. Any such agreement may require each UNIT OWNER to subscribe for, at a minimum, basic services offered by the Service Provider, such as basic cable television, home monitoring, and high speed internet service, and to pay such services as a COMMON EXPENSE, either directly to the Service Provider, or to the ASSOCIATION, as may be provided in the agreement. Notwithstanding the foregoing, if any such services are not applicable to particular LOTS (for example pool maintenance service is not applicable to a UNIT which does not have a pool) then the cost for such services shall only be assessed to the OWNERS of LOTS for which the service applies. Any agreement may also give the UNIT OWNERS the option to subscribe to additional services in addition to the basic services for an additional fee to be determined by the Service Provider providing such services from time to time.

3.13 Service Providers. It is acknowledged that is customary for the OWNERS to separately contract for various services for their LOTS which are customarily provided by independent providers, such as insect and pest control, appliance maintenance, and the like. The APPROVING PARTY will have the right to approve one or more service providers for each type of such services, in order to limit the number of different service providers that will have access into the SUBJECT PROPERTY, and in that event no OWNER may contract for such services for the OWNER's LOT with any service provider other than an approved service provider(s). In the alternative, the ASSOCIATION may enter into a contract with any

service provider to provide any type of services to the LOTS as a COMMON EXPENSE, and in that event all of the OWNERS will pay for such services as part of their ASSESSMENTS for COMMON EXPENSES.,

3.14 CONSERVATION AREAS. The SUBJECT PROPERTY may include certain CONSERVATION AREAS, if any, as designated on recorded plats within the SUBJECT PROPERTY. Each OWNER, by acceptance of title to its LOT, acknowledges that such CONSERVATION AREAS have been created in compliance with the Zoning Ordinance and may be subject to DEVELOPMENT AGREEMENTS to provide for the perpetual restriction and maintenance of such areas to promote habitat preservation and to protect environmental resources within the SUBJECT PROPERTY. All such CONSERVATION AREAS are intended to be owned in fee simple by the ASSOCIATION or by a Community Development District ("CDD"), if any, and maintained by the ASSOCIATION or by the CDD where applicable. The DECLARANT and the ASSOCIATION shall have the right to enter into agreements with any CDD for the ASSOCIATION to provide to the CDD such maintenance operations as the DECLARANT and the Association deem appropriate for the benefit of the OWNERS within the SUBJECT PROPERTY. Each OWNER, by acceptance of title to its LOT, acknowledges that any CDD may be required to, and may conduct certain maintenance activities within the CONSERVATION AREAS, from time to time, and each OWNER agrees not to impede the same. Each OWNER, by acceptance of title to its LOT, acknowledges and agrees that the CONSERVATION AREAS may be utilized only in such manner as permitted by the conservation easements established by the recorded plats within the SUBJECT PROPERTY, by separate conservation easements recorded against the CONSERVATION AREAS, if any, by any DEVELOPMENT AGREEMENTS, if any, or as permitted by this DECLARATION, and for no other purposes. The CONSERVATION AREAS, where applicable, may not be utilized for development of any building sites and must, to the extent practicable, be left in their natural state. No OWNER shall clear any CONSERVATION AREA, dump any materials into any CONSERVATION AREA, plant any nuisance or exotic species in or adjacent to any CONSERVATION AREA, or otherwise modify its natural state. The CONSERVATION AREAS may be integrated by the DECLARANT, the ASSOCIATION, where applicable, or any CDD, where applicable, into the SUBJECT PROPERTY for use as natural conservation and/or passive park areas, and may be utilized for nature trail, bicycle, jogging, or other pedestrian trails, natural-resource-based community recreation areas, or other passive recreational purposes as may be determined appropriate by the DECLARANT, the ASSOCIATION, or, where applicable, the CDD. The DECLARANT reserves the right to provide for road and access crossings through CONSERVATION AREAS pursuant to the terms of the DEVELOPMENT AGREEMENTS, If any, and to otherwise make use of the CONSERVATION AREAS as permitted by the DEVELOPMENT AGREEMENTS, where applicable. Each OWNER shall utilize CONSERVATION AREAS only in such manner as may be permitted from time to time by any CDD, the ASSOCIATION, or the DECLARANT, and in no other manner and for no other purpose.

4. SURFACE WATER MANAGEMENT SYSTEM

4.1 Storm/Surface Water Management. The St. Johns River Water Management District has jurisdiction over this subdivision and has issued Stormwater Discharge Permit No. 4-031-90185-1 authorizing construction and operation of a storm and/or surface water management system to serve the PROPERTY. No alteration to any part of the aforementioned system, including but not limited to, swales, and pipes, will be allowed without the written consent of DECLARANT and the St. Johns River Water Management District. All clearing, grading, and other construction activities must comply with the terms and conditions of the said permit. Specifically, the owners of the LOTS requiring rear lot water treatment are required to install rear lot water treatment at the time of house construction in accordance with the terms and conditions of the said permit and said owners or their heirs, successors, or assigns shall be responsible for the continuing compliance with said permit. In the event that any Owner fails to comply with the terms of the permit, the COMMUNITY ASSOCIATION shall have the right to enter upon the LOT to bring any LOT into compliance and levy a special assessment against the LOT for any costs incurred as a result thereof.

4.2 Easement for Access and Drainage. The COMMUNITY ASSOCIATION shall have a perpetual non-exclusive easement over all areas of the surface water or stormwater management system

for access to operate, maintain or repair the system. By this easement, the COMMUNITY ASSOCIATION shall have the right to enter upon any portion of any LOT which is a part of the surface water or stormwater management system, at a reasonable time and in a reasonable manner, to operate, maintain or repair the surface water or stormwater management system as required by the St. Johns River Water Management District permit. Additionally, the COMMUNITY ASSOCIATION shall have a perpetual non-exclusive easement for drainage over the entire surface water or stormwater management system. No person shall alter the drainage flow of the surface water or stormwater management system, including buffer areas or swales, without the prior written approval of the St. Johns River Water Management District.

4.3 Conservation Easement Areas. Where required, there shall be set aside CONSERVATION EASEMENT AREAS as all of such areas are described in the legal description of the PROPERTY, attached as Exhibit "A". The CONSERVATION EASEMENT AREAS shall and are hereby declared to be subject to a CONSERVATION DEED RESTRICTION pursuant to Section 704.06 of the Florida Statutes in favor of the St. Johns River Water Management District ("DISTRICT"), for the purpose of retaining and maintaining the CONSERVATION EASEMENT AREAS in their predominantly natural condition as a wooded water recharge, detention, percolation and environmental conservation area. In furtherance of this CONSERVATION DEED RESTRICTION, all the following uses of the CONSERVATION EASEMENT AREAS are hereby prohibited and restricted without the prior written consent of the DISTRICT, to wit:

4.3.1 The construction, installation or placement of signs, buildings, fences, walls, roads or any other structures and improvements on or above the ground of the CONSERVATION EASEMENT AREAS;

4.3.2 The dumping or placing of soil or other substances or materials as landfill or the dumping or placing of trash, waste or unsightly or offensive materials;

4.3.3. The removal or destruction of trees, shrubs or other vegetation from the CONSERVATION EASEMENT AREAS;

4.3.4. The excavation, dredging or removal of loam, peat, gravel, rock, soil, or other material substance in such a manner as to affect the surface of the CONSERVATION EASEMENT AREAS;

4.3.5. Surface use, except for purposes that permit the land or water area to remain in predominantly natural condition;

4.3.6. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation; and

4.3.7. Acts or uses detrimental to such retention of land or water areas.

4.4 Right of Entry. The CONSERVATION EASEMENT AREAS hereby created and declared shall be perpetual. The DISTRICT, its successors or assigns, shall have the right to enter upon the CONSERVATION EASEMENT AREAS at all reasonable times and in a reasonable manner, to assure compliance with the aforesaid prohibitions and restrictions.

4.5 Removal of Trash and Debris. The COMMUNITY ASSOCIATION, and all subsequent owners of the CONSERVATION EASEMENT AREAS shall be responsible for the periodic removal of trash and other debris which may accumulate on such CONSERVATION EASEMENT AREAS.

4.6 Enforcement and Amendment. The prohibitions and restrictions upon the CONSERVATION EASEMENT AREAS as set forth in this section may be enforced by the St. Johns River Water Management District or its successor agency by proceedings at law or in equity including, without limitation, actions for injunctive relief. The provision of this CONSERVATION EASEMENT AREA

restriction may not be amended without prior approval from the St. Johns River Water Management District.

4.7 Developer Liability. All rights and obligations arising hereunder are appurtenances and covenants running with the land of the CONSERVATION EASEMENT AREAS, and shall be binding upon and shall inure to the benefit of the DISTRICT and its successors and assigns. Upon conveyance by the DECLARANT to third parties of any land affected by this easement, the DECLARANT shall have no further liability or responsibility hereunder, provided the deed restriction covering the CONSERVATION EASEMENT AREAS is properly recorded.

5. EASEMENTS. Each of the following easements are hereby created, which shall run with the land and, notwithstanding any of the other provisions of this DECLARATION, may not be substantially amended or revoked in such a way as to unreasonably interfere with their proper and intended uses and purposes, and each shall survive the termination of this DECLARATION.

5.1 Easements for Pedestrian and Vehicular Traffic. Easements for pedestrian traffic over, through and across sidewalks, paths, lanes and walks, as the same may from time to time exist upon the COMMON AREAS and be intended for such purpose; and for pedestrian and vehicular traffic and parking over, through, across and upon such portion of the COMMON AREAS as may from time to time be paved and intended for such purposes, same being for the use and benefit of the OWNERS and the residents of the SUBJECT PROPERTY, their mortgagees, and their guests and invitees.

5.2 Perpetual Nonexclusive Easement in COMMON AREAS. The COMMON AREAS shall be, and the same are hereby declared to be, subject to a perpetual nonexclusive appurtenant easement in favor of all OWNERS and residents of the SUBJECT PROPERTY from time to time, and their guests and invitees, for all proper and normal purposes and for the furnishing of services and facilities for which the same are reasonably intended.

5.3 Service and Utility Easements. Easements in favor of governmental and quasi-governmental authorities, utility companies, cable television companies, ambulance or emergency vehicle companies, and mail carrier companies, over and across all roads existing from time to time with the SUBJECT PROPERTY, and over, under, on and across the COMMON AREAS, as may be reasonably required to permit the foregoing, and their agents and employees, to provide their respective authorized services to and for the SUBJECT PROPERTY. Also, easements as may be required for the installation, maintenance, repair and providing of utility services, equipment and fixtures in order to adequately serve the SUBJECT PROPERTY, including, but not limited to, electricity, telephones, sewer, water, lighting, irrigation, drainage, television antenna and cable television facilities, and electronic security. However, easements affecting any LOT which serve any other portion of the SUBJECT PROPERTY shall only be under the LOT, and shall only be for utility services actually constructed, or reconstructed, and for the maintenance thereof, unless otherwise approved in writing by the OWNER of the LOT. An OWNER shall do nothing on his LOT which interferes with or impairs the utility services using these easements. The BOARD or its designee shall have a right of access to each LOT to inspect, maintain, repair or replace the utility service facilities contained under the LOT and to remove any improvements interfering with or impairing the utility services or easement herein reserved at the expense of the applicable OWNER, and an easement for such entry is hereby reserved; provided such right of access shall not unreasonably interfere with the OWNER's permitted use of the LOT.

5.4 Utility Meter Easements. DECLARANT reserves the right to group the utility meters for the UNITS together, so that the utility meters for several UNITS will be located together, and in that event the utility meter serving a UNIT may be located on another LOT or on the COMMON AREAS. If the utility meter serving any UNIT is located on a LOT other than the LOT containing the UNIT, an easement shall exist for the utility meter as installed by DECLARANT, and for the utility lines and pipes from the meter to the UNIT served by the meter.

5.5 Support. Every portion of a UNIT contributing to the support of a BUILDING or an adjacent UNIT shall be burdened with an easement of support for the benefit of all other UNITS in the BUILDING.

5.6 Encroachments. If any portion of the COMMON AREAS encroaches upon any LOT; if any UNIT or other improvement encroaches upon any LOT or upon any portion of the COMMON AREAS; or if any encroachment shall hereafter occur as a result of (i) construction or reconstruction of any improvements; (ii) settling or shifting of any improvements; (iii) any addition, alteration or repair to the COMMON AREAS made by or with the consent of the ASSOCIATION, (iv) any repair or restoration of any improvements (or any portion thereof) or any UNIT after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any UNIT or the COMMON AREAS; or (v) any non-purposeful or non-negligent act of an OWNER except as may be authorized by the BOARD, then, in any such event, a valid easement shall exist for such encroachment and for the maintenance of the same so long as the improvements shall stand.

5.7 Easements for overhanging troughs or gutters, downspouts and the discharge therefrom of rainwater and the subsequent flow thereof over the LOTS and the COMMON AREAS.

5.8 Additional Easements. DECLARANT (so long as it owns any LOT) and the ASSOCIATION, on their behalf and on behalf of all OWNERS, each shall have the right to (i) grant and declare additional easements over, upon, under and/or across the COMMON AREAS in favor of DECLARANT or any person, entity, public or quasi-public authority or utility company, or (ii) modify, relocate, abandon or terminate existing easements benefiting or affecting the SUBJECT PROPERTY. In connection with the grant, modification, relocation, abandonment or termination of any easement, DECLARANT reserves the right to relocate roads, parking areas, utility lines, and other improvements upon or serving the SUBJECT PROPERTY. So long as the foregoing will not unreasonably and adversely interfere with the use of LOTS for dwelling purposes, no consent of any OWNER or any mortgagee of any LOT shall be required or, if same would unreasonably and adversely interfere with the use of any LOT for dwelling purposes, only the consent of the OWNERS and INSTITUTIONAL LENDERS of LOTS so affected shall be required. To the extent required, all OWNERS hereby irrevocably appoint DECLARANT and/or the ASSOCIATION as their attorney-in-fact for the foregoing purposes.

5.9 Sale and Development Easement. DECLARANT reserves and shall have an easement over, upon, across and under the SUBJECT PROPERTY as may be reasonably required by DECLARANT in connection with the development, construction, sale and promotion, or leasing, of any LOT or UNIT within the SUBJECT PROPERTY or within any other property owned by DECLARANT.

6. MAINTENANCE OF THE SUBJECT PROPERTY.

6.1 By the ASSOCIATION. The ASSOCIATION shall operate, maintain, repair and replace, as a COMMON EXPENSE, the following portions of the SUBJECT PROPERTY, and shall have an easement over the LOTS and the irrevocable right of access to the LOTS and the UNITS from time to time during reasonable hours as may be necessary in connection with the ASSOCIATION's maintenance obligations:

6.1.1 COMMON AREAS. The ASSOCIATION shall maintain all COMMON AREAS, or other areas for which the duty to maintain has been delegated to and accepted by the ASSOCIATION, and all paving, parking areas, landscaping and improvements contained thereon from time to time.

6.1.2 Landscaping. The ASSOCIATION shall be responsible for the maintenance and care of all landscaping throughout the SUBJECT PROPERTY, in the unpaved portion of contiguous road right-of-ways, and in the portion of any lake maintenance easement contiguous to any LOT or any COMMON AREA. The ASSOCIATION shall plant, remove and/or replace sod, plants, flowers, shrubbery and trees when in the sole discretion of the ASSOCIATION same is appropriate and in the best interest of the SUBJECT PROPERTY. The ASSOCIATION's responsibility shall include mowing, trimming, pruning, edging, fertilizing, weed control, and landscape related insect and disease control. Notwithstanding the

foregoing, if any OWNER installs landscaping on the OWNER's LOT which is materially more expensive to maintain than the landscaping on the other LOTS, the ASSOCIATION will have the right to assess the OWNER of such LOT for the extra cost of maintaining the special landscaping on such LOT, or in the alternative the ASSOCIATION may require the applicable OWNER to maintain such special landscaping as hereafter provided, and if the applicable OWNER fails to pay any such extra cost or maintain such landscaping, the ASSOCIATION will have the right to remove same in the sole discretion of the ASSOCIATION, without liability to the OWNER.

6.1.3 Utility Services. The ASSOCIATION shall maintain all utility meters, lines and facilities not owned or maintained by any governmental authority or utility company, except for utility services located within any LOT, which serve only the LOT or the UNIT on the LOT.

6.1.4 Subdivision Wells and Water Sprinkler System. The ASSOCIATION shall maintain and repair wells (if any), pipes and water sprinkler systems throughout the SUBJECT PROPERTY.

6.1.5 Building Exteriors and Roofs. The ASSOCIATION shall maintain and periodically clean the roof and exterior walls of the UNITS, and shall periodically paint the exterior walls and the exterior surfaces of the doors on the outside of the UNITS, including garage doors, and other exterior surfaces customarily painted in connection with the painting of the exterior walls. When the ASSOCIATION paints the exterior walls of the UNITS, it will also perform minor repairs and maintenance customarily performed in connection with the painting of the exterior of a UNIT, the nature and extent of which shall be in the discretion of the BOARD. Notwithstanding the foregoing if any UNIT OWNER makes any improvement to his UNIT which increases the cost to the ASSOCIATION of maintaining, painting or cleaning the exterior of the UNIT as required herein, the UNIT OWNER may be assessed for such cost by the ASSOCIATION. Except for the foregoing maintenance, painting and cleaning, done at such times as is determined by the BOARD, the ASSOCIATION will not be responsible for any maintenance or repair of any UNIT, and in particular will not be responsible for repairing or replacing doors, garage doors, windows, and framing for same, and all such other maintenance of a UNIT shall be the responsibility of the UNIT OWNER. Furthermore, the ASSOCIATION will not be liable for any damage to any UNIT, or to any improvement therein, or to any personal property of a UNIT OWNER, caused by the ASSOCIATION's maintenance or repair, or failure to maintain or repair, any portion of the UNIT as required herein. The general color scheme of the UNITS as originally constructed by DECLARANT, or as may be changed by the approval of the OWNERS from time to time, shall not be materially changed or altered without the consent of the OWNERS. Notwithstanding anything contained herein to the contrary, the cost of providing the forgoing maintenance for any BUILDING shall be assessed only to the OWNERS of UNITS within the BUILDING being maintained, and shall be assessed equally among such OWNERS.

6.1.6 Sidewalks and Street Lighting. The ASSOCIATION shall maintain any common sidewalks or walkways within the SUBJECT PROPERTY, but not any sidewalk or walkway exclusively serving only one LOT. The ASSOCIATION shall also maintain any common street lighting within the SUBJECT PROPERTY, other than any street lighting exclusively serving one LOT, and shall maintain and pay for any utility services used in connection with such common street lighting.

6.1.7 Other Property. The ASSOCIATION shall have the right to maintain such other areas within or contiguous to the SUBJECT PROPERTY as the BOARD determines from time to time is in the best interest of the OWNERS, and the cost of any such maintenance shall be a COMMON EXPENSE. In particular, the ASSOCIATION shall have the right to maintain any road providing access to the SUBJECT PROPERTY, and any landscaping within or along any such access road or other road right-of-way contiguous to the SUBJECT PROPERTY, and any lighting along any such road. In addition, if any lake or canal is contiguous to the SUBJECT PROPERTY, the ASSOCIATION shall have the right to maintain landscaping to the waterline of any such lake or canal. The ASSOCIATION may also enter into agreements with any other PERSON, or any governmental authority, to share in the maintenance responsibility of any property if the BOARD, in its sole and absolute discretion, determines this would be in the best interest of the OWNER.

6.1.8 Special Maintenance Required by OWNERS. Notwithstanding the foregoing, if for any reason the exterior walls, roof, or other portions of any UNIT in any BUILDING requires cleaning, painting or maintenance before such cleaning, painting or maintenance is generally required to be performed on the other UNITS in the same BUILDING and the ASSOCIATION determines to perform same; or if any cleaning, painting or maintenance which would not otherwise then be performed by the ASSOCIATION is required due to the actions of any OWNER, or the residents of any UNIT, or their guests or invitees, the OWNER of the UNIT shall be responsible for the cost of same and may be assessed for such cost by the ASSOCIATION. In addition, if any OWNER or any resident of any UNIT, or their guests or invitees, damages any COMMON AREA or any improvement thereon, the OWNER of such UNIT shall be liable to the ASSOCIATION for the cost of repair or restoration to the extent not covered by the ASSOCIATION's insurance.

6.1.9 Exception for Casualty Damage. Notwithstanding the foregoing, in the event any portion of a UNIT required to be maintained by the ASSOCIATION is damaged or destroyed by fire, hurricane or other casualty normally covered by property insurance (whether or not the applicable UNIT OWNER maintains insurance that actually covers such damage or destruction), the UNIT OWNER shall be responsible for repairing and restoring any such damage and the ASSOCIATION shall not be responsible for same.

6.2 By the OWNERS. Each OWNER shall maintain his UNIT and all improvements upon his LOT in first class condition, except those portions of the UNIT and LOT which are to be maintained by the ASSOCIATION as provided above. The exterior of all UNITS including but not limited to roofs, walls, exterior doors, and garage doors, (except for cleaning, painting and/or maintenance to be performed by the ASSOCIATION as set forth above), windows, patio areas, pools, screenings, awnings, and other portions of the exterior of the UNITS shall be maintained in first-class condition and repair and in a neat and attractive manner. All sidewalks, driveways and parking areas within the OWNER's LOT or serving the OWNER's UNIT shall be cleaned and kept free of debris; and cracks, damaged and/or eroding areas on same shall be repaired, replaced, and/or resurfaced as necessary.

6.2.1 Special Provisions for "PRIMARY REPAIRS".

6.2.1.1 For purposes of this DECLARATION, the term "PRIMARY REPAIR" means any repair required to be made to a portion of one or more UNITS, which if not made would materially and adversely affect any other UNIT(S) in the same BUILDING. It is acknowledged a PRIMARY REPAIR includes a repair to the exterior of any UNIT, or to any structural components of a UNIT, whether exterior or interior, including any repairs to the slab floor, exterior walls, party walls, roof trusses or structure, and roof materials. Notwithstanding the foregoing, a PRIMARY REPAIR does not include any maintenance or repair which if not made would not affect the structure or materially affect the exterior appearance of a UNIT or any other UNITS in the same BUILDING.

6.2.1.2 It is acknowledged that in the event any PRIMARY REPAIR is required, the ASSOCIATION has a special interest in making sure same is properly and timely performed so as not to adversely affect the other UNITS within the same BUILDING. The ASSOCIATION, at the request of the OWNER(s) of the UNIT(s) that will be repaired, may permit such OWNER(s) to make any PRIMARY REPAIR, in which event the ASSOCIATION shall have the right to approve the contractor hired by the OWNER(s) that will do so. In all other instances, the ASSOCIATION shall hire the contractor to make the PRIMARY REPAIR. If a PRIMARY REPAIR is only to a portion of one UNIT, the OWNER of the UNIT will be responsible for the entire cost of the PRIMARY REPAIR. If a PRIMARY REPAIR is required to be simultaneously made to portions of two or more UNITS, then the OWNER of each such UNIT shall be responsible for a portion of such cost, based upon the relative cost of the repair of the portion of the BUILDING bounding each OWNER's UNIT, as reasonably determined by the contractor hired by the ASSOCIATION to perform such PRIMARY REPAIR. The OWNER of each UNIT required to pay for the cost of any PRIMARY REPAIR shall be required to deposit funds with the ASSOCIATION sufficient to pay

for the OWNER's share of the cost of same within 10 days after written demand by the ASSOCIATION. If any OWNER fails or refuses for any reason to deposit such funds, or to pay for the repair as required herein, the ASSOCIATION shall have the right but not the obligation to pay same on behalf of the defaulting OWNER. In that event any funds advanced by the ASSOCIATION shall be assessed against the defaulting OWNER, and the ASSOCIATION may collect such ASSESSMENT and have a lien for same as elsewhere provided. In any event, the ASSOCIATION shall not have the obligation to make any PRIMARY REPAIR to any UNIT if the OWNER of the UNIT fails to deposit funds sufficient to pay for same as required herein.

6.2.1.3 The provisions of this paragraph shall not apply to repairs required by damage or destruction, which are controlled by Paragraph 9 of this DECLARATION.

7. ARCHITECTURAL CONTROL FOR EXTERIOR CHANGES.

7.1 Purpose. The APPROVING PARTY shall have the right to exercise architectural control over all IMPROVEMENTS, to assist in making the entire SUBJECT PROPERTY a community of high standards and aesthetic beauty. Such architectural control may include all architectural aspects of any IMPROVEMENT including, but not limited to, size, height, site planning, set-back exterior design, materials, colors, open space, landscaping, waterscaping, and aesthetic criteria.

7.2 OWNER to Obtain Approval. No OWNER shall make any IMPROVEMENT, and no OWNER shall apply for any governmental approval or building or other permit for any IMPROVEMENT, unless the OWNER first obtains the written approval of the IMPROVEMENT from the APPROVING PARTY.

7.3 Request for Approval. Any request for approval by the APPROVING PARTY of any IMPROVEMENT shall be in writing and shall be accompanied by plans and specifications or other details as the APPROVING PARTY may deem reasonably necessary in connection with its determination as to whether or not it will approve same. The plans and specifications submitted for approval shall show the nature, kind, shape, height, materials, color, and location of all proposed IMPROVEMENTS. If the APPROVING PARTY deems the plans and specifications deficient, the APPROVING PARTY may require such further detail in the plans and specifications as the APPROVING PARTY deems necessary in connection with its approval of same, including, without limitation, floor plans, site plans, drainage plans, elevation drawings, and descriptions or samples of exterior materials and colors, and until receipt of the foregoing, the APPROVING PARTY may postpone review of any plans submitted for approval. The APPROVING PARTY shall have the right to charge a reasonable fee to any PERSON requesting architectural approval, including where applicable the fee of any architect or engineer hired by the APPROVING PARTY to review any plans or specifications, provided that the APPROVING PARTY shall not be required to use the services of any architect or engineer in connection with its exercise of architectural approval. The APPROVING PARTY shall not be obligated to review or approve any plans and specifications until such fee is paid. Approval of any request shall not be withheld in a discriminatory manner or in a manner which unreasonably prohibits the reasonable improvement of any property, but may be withheld due to aesthetic considerations.

7.4 Approval. The APPROVING PARTY shall notify the OWNER of its approval or disapproval, or that the APPROVING PARTY requires additions to the plans and specifications or other materials, by written notice within 30 days after request for such approval is made in writing to the APPROVING PARTY, and all documents, plans and specifications, and other materials required by the APPROVING PARTY in connection with such approval have been submitted. In the event the APPROVING PARTY fails to disapprove any request within such 30 day period, the request shall be deemed approved and upon request the APPROVING PARTY shall give written notice of such approval, provided the party requesting such approval pays any fee charged by the APPROVING PARTY in connection with the approval. In consenting to any proposed IMPROVEMENT, the APPROVING PARTY may condition such consent upon changes being made and any such approval shall be deemed a disapproval unless and until the party requesting the approval agrees to the changes. If the APPROVING PARTY approves, or is deemed to have approved, any IMPROVEMENT, the OWNER requesting approval may proceed to make the IMPROVEMENT in strict

conformance with the plans and specifications approved or deemed to have been approved, subject to any conditions of the APPROVING PARTY's approval, and shall not make any material changes without the approval of the APPROVING PARTY. If the APPROVING PARTY approves any IMPROVEMENT, same shall not require the APPROVING PARTY, or any subsequent APPROVING PARTY to approve any similar IMPROVEMENT in the future, and the APPROVING PARTY shall have the right in the future to withhold approval of similar IMPROVEMENTS requested by any other OWNER.

7.5 Architectural Guidelines and Criteria. The APPROVING PARTY may adopt and modify from time to time, in its discretion, minimum guidelines, criteria and/or standards which will be used by it in connection with its exercise of architectural control, provided however that same shall not apply to any previously existing or approved IMPROVEMENT. The foregoing may include, but are not limited to, minimum square footage, maximum height, minimum set-back, and minimum landscaping requirements.

7.6 Inspections. Upon the completion of any IMPROVEMENT, the applicable OWNER shall give written notice of the completion to the APPROVING PARTY. Within 90 days thereafter, the APPROVING PARTY shall have the right to inspect the IMPROVEMENT and notify the OWNER in writing that the IMPROVEMENT is accepted, or that the IMPROVEMENT is deficient because it was not completed in conformance with the approved plans and specifications or in a manner otherwise acceptable to the APPROVING PARTY, specifying the particulars of such deficiencies. Within 30 days thereafter the OWNER shall correct the deficiencies set forth in the notice, and upon completion of the work the APPROVING PARTY shall again be given a notice of the completion, and the provisions of this Paragraph shall again become operative. If the APPROVING PARTY fails to notify the OWNER of any deficiencies within 90 days after receipt of a notice of completion the IMPROVEMENT shall be deemed to have been accepted by the APPROVING PARTY.

7.7 Remedy for Violations. In the event this section is violated in that any IMPROVEMENT is made without first obtaining the approval of the APPROVING PARTY, or is not made in strict conformance with any approval given or deemed given by the APPROVING PARTY, the APPROVING PARTY shall specifically have the right to injunctive relief to require the applicable OWNER to stop, remove and/or alter any IMPROVEMENT in a manner which complies with the requirements of the APPROVING PARTY, or the APPROVING PARTY may pursue any other remedy available to it. If DECLARANT is the APPROVING PARTY, then in connection with the enforcement of this section, DECLARANT shall have all of the rights of enforcement granted to the ASSOCIATION pursuant to this DECLARATION, including but not limited to the right to impose fines, and to assess and lien for costs and expenses incurred in enforcing this section, except that any fines shall be paid to the ASSOCIATION. In connection with the enforcement of this section, the APPROVING PARTY shall have the right to enter onto any LOT and make any inspection necessary to determine that the provisions of this Paragraph have been complied with. The failure of the APPROVING PARTY to object to any IMPROVEMENT prior to the completion of the IMPROVEMENT shall not constitute a waiver of the APPROVING PARTY's right to enforce the provisions of this section. Any action to enforce this Section must be commenced within 1 year after notice of the violation by the APPROVING PARTY, or within 3 years after the date of the violation, whichever occurs first. The foregoing shall be in addition to any other remedy set forth herein for violations of this DECLARATION. Notwithstanding anything contained within this DECLARATION to the contrary, the APPROVING PARTY shall have the exclusive authority to enforce the provisions of this Paragraph.

7.8 No Liability. Notwithstanding anything contained herein to the contrary, the APPROVING PARTY shall merely have the right, but not the duty, to exercise architectural control, and shall not be liable to any OWNER due to the exercise or non-exercise of such control, or the approval or disapproval of any IMPROVEMENT. Furthermore, the approval of any plans or specifications or any IMPROVEMENT shall not be deemed to be a determination or warranty that such plans or specifications or IMPROVEMENT are complete or do not contain defects, or in fact meet any standards, guidelines and/or criteria of the APPROVING PARTY, or are in fact architecturally or aesthetically appropriate, or comply with any applicable governmental requirements, and the APPROVING PARTY shall not be liable for any defect or deficiency in such plans or specifications or IMPROVEMENT, or any injury resulting therefrom.

7.9 Compliance with Governmental Requirements. In addition to the foregoing requirements, any IMPROVEMENT made by any OWNER must be in compliance with the requirements of all controlling governmental authorities, and the OWNER shall be required to obtain an appropriate building permit from the applicable governmental authority when required by controlling governmental requirements. Any consent or approval by the APPROVING PARTY to any IMPROVEMENT may be made conditioned upon the OWNER obtaining a building permit for same, or providing the APPROVING PARTY written evidence from the controlling governmental authority that such permit will not be required, and in that event the OWNER shall not proceed with any IMPROVEMENT until such building permit or evidence that a building permit is not required is obtained and submitted to the APPROVING PARTY.

7.10 Construction by Licensed Contractor. If a building permit is required for any IMPROVEMENT made by any OWNER, then the IMPROVEMENT must be installed or constructed by a licensed contractor unless otherwise approved by the APPROVING PARTY, and in any event must be constructed in a good and workmanlike manner.

7.11 Certificate. Within 10 days after the request of any OWNER, the APPROVING PARTY shall issue without charge a written certification in recordable form as to whether or not the IMPROVEMENTS located upon the OWNER's LOT comply with the provisions of this DECLARATION.

8. USE RESTRICTIONS.

8.1 Air Conditioning Units. Only central air conditioning units are permitted, and no window, wall, or portable air conditioning units are permitted, without the prior written consent of the APPROVING PARTY.

8.2 Automobiles, Vehicles and Boats. Only automobiles, vans, pick-up trucks, and other vehicles manufactured and used as private passenger vehicles, may be parked within the SUBJECT PROPERTY overnight without the prior written consent of the APPROVING PARTY, unless kept within an enclosed garage. In particular and without limitation, without the prior written consent of the APPROVING PARTY, no truck with more than two axles, recreational vehicle, camper, trailer, or vehicle other than a private passenger vehicle as specified above, and no boat, may be parked or stored outside of a UNIT overnight. No overnight parking is permitted on any streets, lawns, or areas other than driveways and garages, and any paved portion of the COMMON AREAS intended for parking, without the consent of the APPROVING PARTY. Notwithstanding the foregoing, automobiles owned by governmental law enforcement agencies are expressly permitted. The OWNER and residents of any UNIT may not keep more than two vehicles within the SUBJECT PROPERTY on a permanent basis without the prior written consent of the APPROVING PARTY. The foregoing restrictions shall not be deemed to prohibit the temporary parking of commercial vehicles while making delivery to or from, or while used in connection with providing services to, the SUBJECT PROPERTY. All vehicles parked within the SUBJECT PROPERTY must be in good condition and repair, and no vehicle which does not contain a current license plate or which cannot operate on its own power shall be parked within the SUBJECT PROPERTY outside of an enclosed garage for more than 24 hours, and no major repair of any vehicle shall be made on the SUBJECT PROPERTY. All vehicles parked within the SUBJECT PROPERTY must be painted with colors and in a manner which is customary for private passenger vehicles, and which is not offensive or distasteful in the reasonable opinion of the APPROVING PARTY. No motorcycle, motorbike, moped, all-terrain vehicle, or other such vehicle is permitted to be operated within the SUBJECT PROPERTY unless such vehicle is licensed for street use and equipped with appropriate noise-muffling equipment so that its operation does not create an annoyance to the residents of the SUBJECT PROPERTY, and if the APPROVING PARTY determines the operation of any such vehicle creates an annoyance to the residents of the SUBJECT PROPERTY, then after written demand from the APPROVING PARTY, the vehicle shall not be operated within the SUBJECT PROPERTY.

8.3 Basketball Backboards. No permanently installed basketball backboards are permitted. No portable basketball backboards may be kept outside of a UNIT overnight or when not in use.

8.4 Business or Commercial Use. No trade, business, profession, or commercial activity, or any other non-residential use, shall be conducted by a UNIT OWNER or resident of a UNIT outside of the UNIT, if in connection therewith customers, patients or the like come to the UNIT or if such non-residential use is otherwise apparent from the exterior of the UNIT. The foregoing shall not preclude (i) the leasing of UNITS in accordance with this DECLARATION; or (ii) activities associated with the construction, development and sale of the SUBJECT PROPERTY or any portion thereof.

8.5 Clotheslines and Outside Clothes Drying. No clotheslines or clothes poles shall be erected, and no outside clothes-drying is permitted, except where such activity is advised or mandated by governmental authorities for energy conservation purposes, in which event the APPROVING PARTY shall have the right to approve the portions of any LOT used for outdoor clothes-drying purposes and the types of devices to be employed in this regard, which approval must be in writing. In any event outdoor clothes drying will only be permitted behind a UNIT, in an area which is screened from view from adjoining roads within the SUBJECT PROPERTY. Only portable outdoor clothes-drying facilities approved by the APPROVING PARTY will be permitted, and same shall be removed when not in use.

8.6 COMMON AREAS. Nothing shall be stored, constructed, placed within, or removed from any COMMON AREA by any OWNER other than DECLARANT, unless approved by the APPROVING PARTY.

8.7 Damage and Destruction. In the event any UNIT or other IMPROVEMENT is damaged or destroyed, the OWNER of the UNIT or IMPROVEMENT, shall repair and restore same as soon as is reasonably practical to the same condition that the UNIT or IMPROVEMENT was in prior to such damage or destruction, unless otherwise approved by the APPROVING PARTY.

8.8 Driveways. No asphalt or gravel driveways, walkways or sidewalks are permitted, and all driveways, sidewalks and walkways must be constructed with an upgraded, stabilized hard surface approved by the APPROVING PARTY. All driveways and walkways must be constructed with concrete, stamped concrete or brick pavers.

8.9 Easements.

8.9.1 "Drainage and/or Utility Easements" means such easements on those portions of the SUBJECT PROPERTY so designated on any plat or any recorded easement for the installation and maintenance of utility and/or drainage facilities. Such easements are for the installation, maintenance, construction, and repair of drainage facilities, including, but not limited to, canals, pumps, pipes, inlets, and outfall structures and all necessary appurtenances thereto and underground utility facilities, including, but not limited to, power, telephone, sewer, water, gas, irrigation, lighting, and television transmission purposes. Within these easements, no Improvement or other material shall be placed or permitted to remain or alteration made which:

8.9.1.1 May damage or interfere with the installation and maintenance of utilities without the prior written consent of the affected utility company and the APPROVING PARTY; provided, however, the installation of a driveway or sod shall not require the consent of the affected utility companies unless the APPROVING PARTY imposes such requirements; or

8.9.1.2 May materially damage the direction of flow or drainage channels in the easements or may materially obstruct or retard the flow of water through drainage channels in the easements without the prior written consent of the APPROVING PARTY and applicable governmental agencies.

The portions of the SUBJECT PROPERTY designated as Drainage and/or Utility Easements and all improvements thereon shall be maintained continuously by the OWNER of such portion of the SUBJECT PROPERTY, except for those improvements for which a public authority or utility company is responsible.

8.10 Exterior Changes, Alterations and Improvements. No OWNER shall make any IMPROVEMENT, without the prior written consent of the APPROVING PARTY, as required by Paragraph 6 of this DECLARATION.

8.11 Fences. Fences shall not be permitted on any LOT without the consent of the APPROVING PARTY. The APPROVING PARTY, in approving any fence as elsewhere provided, shall have the right to require all fences throughout the SUBJECT PROPERTY to be one or more specified standard type(s) of construction and material, and shall have the right to prohibit any other types of fences, and shall further have the right to change such standard as to any new fences from time to time, as the APPROVING PARTY deems appropriate.

8.12 Garages. No garage shall be permanently enclosed, and no portion of a garage originally intended for the parking of an automobile shall be converted into a living space or storage area. All garage doors shall remain closed when not in use.

8.13 Garbage and Trash. Garbage, trash, refuse or rubbish shall be regularly picked up, shall not be permitted to unreasonably accumulate, and shall not be placed or dumped on any portion of the SUBJECT PROPERTY, including any COMMON AREA, not intended for such use, or on any property contiguous to the SUBJECT PROPERTY. Garbage, trash, refuse or rubbish that is required to be placed along any road or in any particular area in order to be collected may be so placed after 5:00 p.m. on the day before the scheduled day of collection, and any trash facilities must be removed on the collection day. Except when so placed for collection, all containers, dumpsters or garbage facilities shall be kept inside a UNIT. All garbage, trash, refuse or rubbish must be placed in appropriate trash facilities or bags. No noxious or offensive odors shall be permitted. Trash containers shall be dark green with wheels. Notwithstanding the foregoing, if one or more common trash collection containers or facilities are provided for all or some of the UNITS within the SUBJECT PROPERTY, (i) each OWNER and resident of a UNIT permitted to use same shall place all garbage, trash, refuse or rubbish in such container or facility, and same shall not be placed outside of any UNIT in a separate trash container or otherwise be placed or dumped on any other portion of the SUBJECT PROPERTY, including any COMMON AREA, not intended for such collection, and (ii) no OWNER of a UNIT not permitted to use any common trash collection container of facility shall deposit any trash in same.

8.14 Lakes and Canals. No swimming or boating is allowed in any lake or canal within or contiguous to the SUBJECT PROPERTY. No OWNER shall deposit or dump any garbage or refuse in any lake or canal within or contiguous to the SUBJECT PROPERTY.

8.15 Leases. All leases of a UNIT must be in writing and specifically be subject to this DECLARATION, the ARTICLES and the BYLAWS, and copies delivered to the ASSOCIATION prior to occupancy by the tenant(s). No lease shall be for a period of less than 6 months, without the consent of the APPROVING PARTY.

8.16 Mailboxes. No mailboxes are permitted except for common mailboxes supplied by DECLARANT or the ASSOCIATION, which are to be maintained by the OWNER.

8.17 Nuisances. No nuisances shall be permitted within the SUBJECT PROPERTY, and no use or practice which is an unreasonable source of annoyance to the residents within the SUBJECT PROPERTY or which shall interfere with the peaceful possession and proper use of the SUBJECT PROPERTY by its residents shall be permitted. No unreasonably offensive or unlawful action shall be permitted, and all laws, zoning ordinances and regulations of all controlling governmental authorities shall be complied with at all times by the OWNERS.

8.18 Occupancy. No UNIT shall be permanently occupied by more than five persons for a two bedroom UNIT, and two additional persons for each additional bedroom or den in the UNIT. In addition,

temporary guests are permitted so long as they do not create an unreasonable source of noise or annoyance to the other residents of the SUBJECT PROPERTY.

8.19 Outside Antennas and Flag Poles. No outside signal receiving or sending antennas, dishes or devices are permitted which are visible from the exterior of a UNIT without the consent of the APPROVING PARTY, except for digital satellite dishes not exceeding 18" in diameter which are located in the rear of the UNIT and not visible from adjoining streets. The foregoing shall not prohibit any antenna or signal receiving dish owned by the APPROVING PARTY which services the entire SUBJECT PROPERTY. No flag poles are permitted without the consent of the APPROVING PARTY.

8.20 Outside Storage of Personal Property. The personal property of any resident of the SUBJECT PROPERTY shall be kept inside the resident's UNIT or a fenced or a walled-in yard, except for tasteful patio furniture and accessories, Bar-B-Q grills, playground equipment approved by the APPROVING PARTY, and other personal property commonly kept outside, which must be kept in the rear of the LOT and must be neat appearing and in good condition.

8.21 Pets. No animals, livestock or poultry of any kind shall be permitted within the SUBJECT PROPERTY except for common household domestic pets. As regards cats and dogs, only one such pet, if same weighs 25 pounds or less, is permitted in any UNIT except with the written consent of the APPROVING PARTY, which may granted or withheld in the APPROVING PARTY's sole discretion. In any event, only dogs and cats will be permitted outside of the permanently enclosed air conditioned living space of a UNIT, and no pet other than a cat or dog shall be permitted outside of such portion of a UNIT, including but not limited to any screened in porch or patio, without the consent of the APPROVING PARTY. No dog shall be kept outside of a UNIT, or in any screened-in porch or patio, unless someone is present in the UNIT. Any pet must be carried or kept on a leash when outside of a UNIT or fenced-in area. No pet shall be permitted to go or stray on any other LOT without the permission of the OWNER of the LOT. Any pet must not be an unreasonable nuisance or annoyance to the other residents of the SUBJECT PROPERTY. Any resident shall immediately pick up and remove any solid animal waste deposited by his pet on the SUBJECT PROPERTY, except for designated pet-walk areas, if any. No commercial breeding of pets is permitted within the SUBJECT PROPERTY. The APPROVING PARTY may require any pet to be immediately and permanently removed from the SUBJECT PROPERTY due to a violation of this Paragraph.

8.22 Playground Equipment. No OWNER shall install any sports, recreational or toddler/children equipment on his LOT or on the exterior of his UNIT without the prior written consent of the APPROVING PARTY.

8.23 Portable Buildings. No portable, storage, temporary or accessory buildings or structures, sheds, or tents, shall be erected, constructed or located upon any LOT for storage or otherwise.

8.24 Recreational Facilities. The BOARD shall have the right to make reasonable rules and regulations regarding the recreational facilities as the BOARD deems desirable from time to time. The following provisions shall apply if the COMMON AREAS include a swimming pool.

8.24.1 Swimming Pool. Children under the age of 12 years old are not permitted in or around the swimming pool unless accompanied by an adult. All persons must shower before entering the swimming pool, and all suntan lotion or oils must be removed before entering the swimming pool. No rafts or flotation devices are permitted when others are using the swimming pool. No food or beverages permitted in or around the swimming pool, and breakable containers are prohibited. No diving is permitted in the swimming pool. Anyone using suntan lotion or oil must cover any lounge or chair they are sitting on with a towel or other covering. All infants or toddlers must wear a rubberized form-fitted or waterproof garment over a diaper while in the swimming pool. If the swimming pool is heated, the BOARD shall have the right not to turn on the heater in the BOARD's discretion, and in particular while DECLARANT appoints a

majority of the directors of the APPROVING PARTY, the heater shall not be required to be turned on at any time.

8.25 Signs and Advertisements. No sign shall be placed upon any LOT or other portion of the SUBJECT PROPERTY, and no signs shall be placed in or upon any UNIT which are visible from the exterior of the UNIT, without the prior written consent of the APPROVING PARTY. In particular, without limitation, no "for sale", "for rent", "open house" or "for sale by owner" signs, handbills, directional signs, balloons, lights, streamers, ribbons, banners, postings or other printed materials, information or any other means of advertising and any associated container, post or rack for dispensing such materials, or the like, (hereinafter, collectively, "signage" are permitted on any LOT or other portion of the SUBJECT PROPERTY. In the event any signage is installed on any LOT or on the exterior of any UNIT which violates this Paragraph, the APPROVING PARTY shall have the right to remove such sign without notice to the OWNER, and the removal shall not be deemed a trespass and the APPROVING PARTY shall not be liable to the OWNER for the removal or for any damage or loss to the sign.

8.26 Surface Water Management. No OWNER or any other PERSON shall do anything to adversely affect the surface water management and drainage of the SUBJECT PROPERTY without the prior written approval of the APPROVING PARTY and any controlling governmental authority, including but not limited to the excavation or filling in of any lake. pond, or canal, or the changing of the elevation of any other portion of the SUBJECT PROPERTY, provided the foregoing shall not be deemed to prohibit or restrict the initial construction of improvements upon the SUBJECT PROPERTY by DECLARANT or by the developer of any portion of the SUBJECT PROPERTY in accordance with permits issued by controlling governmental authorities. In particular, no OWNER other than DECLARANT shall install any landscaping or place any fill on the OWNER's LOT which would adversely affect the drainage of any contiguous LOT.

8.27 Swimming Pools. No below or above-ground swimming pools, spas, or the like, shall be installed or placed within the SUBJECT PROPERTY without the consent of the APPROVING PARTY.

8.28 Termites. In the event it is determined that any UNIT is infested with termites and it is necessary to tent the UNIT, the OWNERS of any UNIT in the same BUILDING as the infested UNIT shall also permit their UNITS to be tented. The expense of any such tenting shall be shared equally between the OWNERS of UNITS in the BUILDING.

8.29 Utility Services. All utility (including but not limited to electricity, telephone, water and sewer, and cable television services) lines, pipes, wires, equipment, boxes, and facilities (collectively "Utility Equipment") shall be installed underground, and no Utility Equipment shall be installed or be located above-ground on any LOT and/or COMMON AREA, with the exception of (i) Utility Equipment installed by any applicable governmental authority, (ii) Utility Equipment installed by or with the approval of DECLARANT or the ASSOCIATION, and (iii) Utility Equipment installed by or for the primary supplier of any particular utility, and (iv) Utility Equipment installed above ground with the prior written consent of DECLARANT or the ASSOCIATION. For purposes of this paragraph, the primary supplier of electricity is Florida Power & Light Company (FPL), the primary supplier of telephone service is Bell South, the primary supplier of water and sewer service is the applicable governmental agency or utility company providing same to the SUBJECT PROPERTY, and the primary supplier of cable television and related services will be any company supplying such services to the SUBJECT PROPERTY pursuant to a written contract with the ASSOCIATION which specifically permits facilities to be constructed above ground.

8.30 Window Treatments. Window treatments shall consist of drapery, blinds, shutters, decorative panels, or other tasteful window covering, and no newspaper, aluminum foil, sheets or other temporary window treatments are permitted, except for periods not exceeding 90 days after an OWNER or tenant first moves into a UNIT or when permanent window treatments are being cleaned or repaired.

8.31 Rules and Regulations. The APPROVING PARTY may adopt additional reasonable rules and regulations relating to the use, maintenance and operation of the SUBJECT PROPERTY. Copies of such

rules and regulations and amendments shall be furnished by the APPROVING PARTY to any OWNER upon request.

8.32 Waiver. The APPROVING PARTY shall have the right to waive the application of one or more of these restrictions, or to permit a deviation from these restrictions as to any UNIT(S), where in the discretion of the APPROVING PARTY special circumstances exist which justify such waiver or deviation, or where such waiver or deviation, when coupled with any conditions imposed for the waiver or deviation by the APPROVING PARTY, will not materially and adversely affect any other OWNERS. In granting any waiver or deviation, the APPROVING PARTY may impose such conditions and restrictions as the APPROVING PARTY may deem necessary, and the OWNER shall be required to comply with any such restrictions or conditions in connection with any waiver or deviation. In the event of any such waiver or permitted deviation, or in the event any party fails to enforce any violation of these restrictions, such actions or inactions shall not be deemed to prohibit or restrict the right of the APPROVING PARTY, or any other person having the right to enforce these restrictions, from insisting upon strict compliance with respect to all other LOTS, nor shall any such actions be deemed a waiver of any of the restrictions contained herein as same may be applied in the future. Furthermore, any approval given by the APPROVING PARTY as to any matter shall not be deemed binding upon the APPROVING PARTY in the future, and shall not require the APPROVING PARTY to grant similar approvals in the future as to any other LOT or OWNER.

8.33 Exceptions. The foregoing use and maintenance restrictions shall not apply to DECLARANT, or to any portion of the SUBJECT PROPERTY while owned by DECLARANT, and shall not be applied in a manner which would prohibit or restrict the development of any portion of the SUBJECT PROPERTY and the construction of any UNITS, BUILDINGS and other IMPROVEMENTS thereon, or any activity associated with the sale or leasing of any UNITS within the SUBJECT PROPERTY, by DECLARANT, or any activity associated with the construction, sale or leasing of any UNITS within any other property owned by DECLARANT or any affiliate of DECLARANT. Specifically, and without limitation, DECLARANT shall have the right to, (i) construct any UNITS, BUILDINGS or IMPROVEMENTS within the SUBJECT PROPERTY, and make any additions, alterations, improvements, or changes thereto, (ii) maintain sales, leasing, general office and construction operations on any LOT, for use in connection with the SUBJECT PROPERTY or any other property; (iii) place, erect or construct portable, temporary or accessory buildings or structures upon any portion of the SUBJECT PROPERTY for sales, leasing, general office, construction, storage or other purposes; (iv) temporarily deposit, dump or accumulate materials, trash, refuse and rubbish in connection with the development or construction activities; and (v) post, display, inscribe or affix to the exterior of a UNIT or upon any portion of the SUBJECT PROPERTY, signs and other materials used in developing, constructing, selling, leasing, or promoting any portion of the SUBJECT PROPERTY or any other property.

9. INSURANCE. The insurance other than title insurance which shall be carried upon the SUBJECT PROPERTY and the UNITS shall be governed by the following provisions:

9.1 Purchase, Custody and Payment of Policies.

9.1.1 Purchase. Except as hereafter set forth, all insurance policies covering the SUBJECT PROPERTY shall be purchased by the ASSOCIATION and shall be issued by an insurance company authorized to do business in Florida which has an office or agent located in the vicinity of the SUBJECT PROPERTY.

9.1.2 Approval by INSTITUTIONAL LENDERS. Each INSTITUTIONAL LENDER will have the right upon reasonable notice to the ASSOCIATION to review and approve, which approval shall not be unreasonably withheld, the form, content, insurer, limits and coverage of all insurance purchased by the ASSOCIATION, and to require the ASSOCIATION to purchase any insurance complying with the reasonable and customary requirements of the INSTITUTIONAL LENDER. In the event of a conflict between INSTITUTIONAL LENDERS, the decision of the INSTITUTIONAL LENDER holding mortgages encumbering LOTS which secure the largest aggregate indebtedness shall control.

9.1.3 Named Insured. The named insured on all policies purchased by the ASSOCIATION shall be the ASSOCIATION, individually and as agent for all OWNERS covered by the policy, without naming them, and as agent for their mortgagees, without naming them.

9.1.4 Copies to OWNERS or INSTITUTIONAL LENDERS. One (1) copy of each insurance policy or a certificate evidencing same, and all endorsements thereon, shall be furnished by the ASSOCIATION to each OWNER or INSTITUTIONAL LENDER who holds a mortgage upon a LOT covered by the policy, and in writing requests the ASSOCIATION to provide it with such policies.

9.1.5 Personal Property and Liability. The OWNERS may obtain insurance at their own expense and at their own discretion for their personal property, personal liability, living expenses, flood damage and for improvements made to their LOT or UNIT which are not covered by any insurance purchased by the ASSOCIATION.

9.1.6 Deductibles. Except for casualty insurance purchased by the association on the units, any deductible or exclusion under an insurance policy purchased by the ASSOCIATION shall be a COMMON EXPENSE.

9.2 Coverage.

9.2.1 Casualty. All UNITS and all improvements upon the SUBJECT PROPERTY and all personal property of the ASSOCIATION are to be insured in an amount equal to one hundred (100%) percent of the then current replacement cost, excluding foundation and excavating costs and other items normally excluded from coverage, as determined annually by the ASSOCIATION. Prior to obtaining any casualty insurance or renewal thereof, the ASSOCIATION shall obtain an appraisal from a fire insurance company or otherwise of the full replacement cost of the UNITS and improvements upon the SUBJECT PROPERTY and all personal property of the ASSOCIATION, without deduction for depreciation, for the purposes of determining the amount of casualty insurance to be obtained pursuant to this Paragraph. Such coverage shall afford protection against:

9.2.1.1 Loss or damage by fire and other hazards covered by a standard extended coverage endorsement;

9.2.1.2 Such other risks as from time to time shall be customarily insured against with respect to buildings and improvements similar in construction, location and use, including, but not limited to vandalism and malicious mischief, and all other risks normally covered by a standard "All Risk" endorsement, where available.

9.2.1.3 The casualty insurance policy shall cover, at a minimum, the "PRINCIPAL COMPONENTS" of the BUILDINGS and UNITS, which includes all exterior and structural components, the roof including tiles, exterior and interior walls, doors, windows and stairways, drywall, exterior stucco and paint (but not interior paint), and the mechanical, plumbing and electrical systems extending under and up to the drywall of the UNIT. The "PRINCIPAL COMPONENTS" do not include any interior improvements other than as set forth above, and specifically shall not include the following: (i) any extras, upgrades, or improvements ordered or made in any UNIT by an OWNER which would be more expensive to install, repair or replace then the equivalent of what was originally supplied as standard by DECLARANT, (ii) sinks, toilets, bathtubs, showers, cabinets, appliances, fixtures, floor coverings, or wall and ceiling texture finishes or coverings, (iii) any furniture, furnishings or other personal property installed or brought into a UNIT, from time to time, by the OWNER or residents of a UNIT, or their guests or invitees, or (iv) any exterior fencing, pool, patio, or other exterior improvement in excess of any improvement which was originally offered as a standard for all of the UNITS by DECLARANT.

9.2.2 Liability. Comprehensive general public liability insurance insuring the ASSOCIATION against loss or damage resulting from accidents or occurrences on or about or in

connection with the SUBJECT PROPERTY, or any work, matters or things related to the SUBJECT PROPERTY or this DECLARATION and its exhibits, with such coverage as shall be required by the ASSOCIATION, but with a combined single limit liability of not less than $500,000.00 for bodily injury, death or property damage, arising out of a single occurrence, and with cross liability endorsement to cover liabilities of the OWNERS as a group to an OWNER.

9.2.3 Workman's Compensation as shall be required to meet the requirements of the law.

9.2.4 Fidelity Bonds. If required by law or by any INSTITUTIONAL LENDER, or if otherwise desired by the BOARD, the ASSOCIATION shall obtain blanket fidelity bonds for all officers, directors, trustees and employees of the ASSOCIATION and all other persons handling or responsible for funds of or administered by the ASSOCIATION. The total amount of fidelity bond coverage, if required, shall in no event be less than a sum equal to three (3) months aggregate ASSESSMENTS for COMMON EXPENSES plus reserve funds held by the ASSOCIATION, if any.

9.2.5 Such Other Insurance as the ASSOCIATION shall determine from time to time to be desirable or as may reasonably be required by an INSTITUTIONAL LENDER pursuant to Paragraph 7.1.2, and as is customarily obtained with respect to UNITS and improvements similar in construction, location and use to those contained within the SUBJECT PROPERTY, such as, where applicable, contractual and all-written contract insurance, employer's liability insurance and comprehensive automobile liability insurance. In no event shall the ASSOCIATION be required to purchase flood insurance, although it may elect to purchase same in the BOARD's discretion, and in the event any UNIT OWNER or INSTITUTIONAL LENDER requires flood insurance and the ASSOCIATION does not purchase same, the responsibility for same shall be the applicable OWNER.

9.2.6 When appropriate and obtainable, any such policy shall waive the insurer's right to: (i) subrogation against the ASSOCIATION and against the OWNERS individually and as a group, (ii) any pro rata clause that reserves to the insurer the right to pay only a fraction of any loss if other insurance carriers have issued coverage upon the same risk, and (iii) avoid liability for a loss that is caused by an act of one or more directors of the ASSOCIATION or by one or more OWNERS; and shall provide that such policies may not be cancelled or substantially modified (except for increases in coverage for limits of liability) without at least ten (10) days prior written notice to the ASSOCIATION and to the holder of a first mortgage encumbering any LOT which is listed as a scheduled holder of a first mortgage in the insurance policy.

9.2.7 Waiver. Notwithstanding anything contained herein to the contrary, in the event the BOARD determines that the insurance hereinabove required to be purchased by the ASSOCIATION is unreasonably expensive to obtain, or is not reasonably obtainable, the ASSOCIATION may purchase insurance with less coverage than hereinabove specified, so long as such reduced coverage is approved by not less than 2/3 of the votes of the OWNERS and by INSTITUTIONAL LENDERS holding mortgages encumbering a majority of the LOTS.

9.3 OWNERS to purchase Casualty Insurance. Notwithstanding anything contained herein to the contrary, the ASSOCIATION may require the OWNERS to purchase casualty insurance for their individual UNITS instead of the ASSOCIATION purchasing same, in accordance with the following provisions.

9.3.1 The decision as to whether the ASSOCIATION will require the OWNERS to purchase such casualty insurance individually will be made by the APPROVING PARTY, provided the APPROVING PARTY shall give each OWNER at least 45 days notice of any decision to change the manner in which such insurance is to be purchased.

9.3.2 Required Insurance. If the APPROVING PARTY determines the OWNERS will be required to purchase casualty insurance on their own UNITS, each UNIT OWNER shall be required to obtain and at all times maintain casualty insurance in an amount equal to the then-current replacement cost of the OWNER'S UNIT, excluding foundation and excavating costs and other items normally excluded from

coverage. The ASSOCIATION shall have the right to approve the amount of casualty insurance purchased by any OWNER, which approval shall not be unreasonably withheld. Such insurance shall contain protection against loss or damage by fire and other hazards covered by a standard extended coverage endorsement and such other risks as from time to time shall be customarily insured against with respect to UNITS similar in construction as the OWNER'S UNIT, including, but not limited to vandalism and malicious mischief and all other risks normally covered by a standard "all risk" endorsement, where available.

9.3.3 Association as Named Insured. The casualty insurance purchased by any OWNER shall name the ASSOCIATION as an additional named insured, and may also name any mortgagee of the UNIT as an additional insured. Each OWNER shall provide the ASSOCIATION with a copy of the insurance policy or a certificate thereof when same is obtained or renewed. The policy shall contain a provision that the insurer will give the ASSOCIATION at least thirty (30) days notice in writing in advance of any cancellation, termination or lapse, or the effective date of any reduction in the amounts of insurance or any other material change.

9.3.4 Failure to Obtain Insurance. In the event any UNIT OWNER fails to maintain such insurance or provide the ASSOCIATION with evidence of same within 10 days after written demand by the ASSOCIATION, the ASSOCIATION shall have the right but not the obligation to obtain casualty insurance for such UNIT OWNER, at the UNIT OWNER's expense, and in that event the cost of obtaining the insurance shall be assessed against the applicable OWNER, and the ASSOCIATION may collect such ASSESSMENT and have a lien for same as elsewhere provided.

9.4 INSTITUTIONAL LENDER. In the event a mortgagee endorsement has been issued as to a UNIT on the ASSOCIATION's casualty insurance policy, or on any casualty insurance policy purchased by an OWNER, the proceeds of the policy shall be held in trust for the INSTITUTIONAL LENDER and the OWNER as their interests may appear. However, no INSTITUTIONAL LENDER shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no INSTITUTIONAL LENDER shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distributions thereof made to the OWNER and INSTITUTIONAL LENDER pursuant to the provisions of this DECLARATION.

9.5 ASSOCIATION as Agent. The ASSOCIATION is hereby irrevocably appointed agent for each OWNER and for the holder of a mortgage or other lien upon a LOT and for each owner of any other interest in the SUBJECT PROPERTY to adjust all claims arising under casualty insurance policies purchased by the ASSOCIATION or by any OWNER, and to execute and deliver releases upon the payment of claims.

9.6 Notice of Possible Inadequate Insurance Coverage. In any legal action in which the ASSOCIATION may be exposed to liability in excess of insurance coverage protecting it and the OWNERS, the ASSOCIATION shall give notice of any excess exposure within a reasonable time to all OWNERS who may be exposed to the liability and they shall have the right to intervene and defend.

9.7 Inspection of Insurance Policies. A copy of each insurance policy purchased by the ASSOCIATION shall be made available for inspection by any OWNER or INSTITUTIONAL LENDER at reasonable times.

10. RECONSTRUCTION OR REPAIR AFTER CASUALTY.

10.1 COMMON AREAS. In the event any improvement (other than landscaping) within any COMMON AREA is damaged or destroyed due to fire, flood, wind, or other casualty or reason, the ASSOCIATION shall restore, repair, replace or rebuild (hereinafter collectively referred to as a "repair") the damaged improvement to the condition the improvement was in immediately prior to such damage or destruction, unless otherwise approved by two-thirds (2/3) of the votes of the OWNERS. If any landscaping within any COMMON AREA or any other property maintained by the ASSOCIATION is damaged or destroyed, the ASSOCIATION shall only be obligated to make such repairs to the landscaping as is

determined by the BOARD in its discretion. Any excess cost of repairing any improvement over insurance proceeds payable on account of any damage or destruction shall be a COMMON EXPENSE, and the ASSOCIATION shall have the right to make a special ASSESSMENT for any such expense.

10.2 PRINCIPAL DAMAGE TO UNITS. For purposes of this DECLARATION, the term "PRINCIPAL DAMAGE" means any damage to a UNIT caused by fire or other casualty, which if not repaired would materially and adversely affect any other UNITS in the same BUILDING or the SUBJECT PROPERTY as a whole. It is acknowledged PRINCIPAL DAMAGE includes, but is not limited to, any damage to the exterior of any UNIT or any improvement on a LOT, including without limitation the slab floor, exterior walls, roof trusses or structure, roof materials, exterior doors and windows and framing for same, and also any damage to any structural components of the UNIT whether exterior or interior.

10.3 Determination to Repair Damaged UNITS. In the event of damage to any UNITS as a result of fire or other casualty, the damage shall be reconstructed or repaired except as hereafter set forth. Notwithstanding the foregoing, if all of the UNITS within any BUILDING are very substantially damaged, then within 60 days after such damage, a special meeting of the OWNERS shall be called to determine whether the damage will be repaired. The damage shall be repaired unless all of the OWNERS of the damaged UNITS, and 2/3rds of the other OWNERS appearing at a meeting called for such purpose, vote to the contrary. In the event the damaged UNITS are not to be repaired, the fee title to each LOT containing a damaged UNIT which is not to be repaired shall be vested in the ASSOCIATION. By accepting a deed conveying a LOT, each OWNER covenants for himself, his heirs, personal representatives, successors and assigns to execute any and all instruments which may be reasonably required by the ASSOCIATION to carry out the terms of this paragraph, including, without limitation, a deed conveying all of the OWNER's rights, title and interest in and to his LOT to the ASSOCIATION. In such event, the ASSOCIATION shall diligently pursue selling all of the LOTS which contain UNITS which are not to be repaired, and the net proceeds from such sale, together with the net proceeds of casualty insurance purchased by the ASSOCIATION resulting from damage, after paying for the cost of removing the BUILDING and improvements that will not be repaired and restoring the land to a clean and safe condition, shall be divided among all the OWNERS of such damaged UNITS, each OWNER to receive a share of such net proceeds based upon the relative assessed value of the UNITS for real estate tax purposes, provided, however, that no payment shall be made to an OWNER until there has first been paid off out of his share of such funds all liens on his LOT in the order of priority of such liens.

10.4 Repair of Damage. Any PRINCIPAL DAMAGE shall be repaired as soon as is reasonably practical after any damage. To the extent practicable, such repair shall be in accordance with the original plans and specifications for the UNITS, and in a manner which will restore the exterior appearance and structure of the BUILDING as same existed prior to the damage, and if same is not practicable then according to plans and specifications approved by a majority of the OWNERS of the damaged UNITS, which approval shall not be unreasonably withheld. The ASSOCIATION shall have the right to approve any plans and specifications for the repair of the PRINCIPAL DAMAGE, if same is repaired by the OWNER and not by the ASSOCIATION, as hereafter set forth.

10.5 Governmental Requirements. Any reconstruction or repair must be in conformance with the requirements of any controlling governmental authority, and where required appropriate permits for same shall be obtained.

10.6 Responsibility. It is acknowledged that in the event of any PRINCIPAL DAMAGE to any UNIT, the ASSOCIATION has a special interest in making sure same is properly repaired so that such damage, and the repair of same, will not adversely affect the other UNITS, especially any UNITS within the same BUILDING as the damaged UNIT. If the damage is to only one UNIT and does not include any PRINCIPAL DAMAGE, then the OWNER shall be shall be responsible for the repair of such damage. If any damage to one or more UNITS includes PRINCIPAL DAMAGE, the ASSOCIATION, at the request of the OWNER of any damaged UNIT, may permit the OWNER of such damaged UNIT to repair all or any part of the damage to his UNIT, in which event the ASSOCIATION shall have the right to approve the contractor

hired by any OWNER that will repair any PRINCIPAL DAMAGE. In all other instances, the responsibility for the repair after casualty shall be that of the ASSOCIATION. If the ASSOCIATION repairs the damage to any UNIT, the ASSOCIATION shall reasonably cooperate with the OWNER of any damaged UNIT with regard to special improvements desired to be made by an OWNER to the interior of his UNIT, so long as same is at no cost or expense to the ASSOCIATION, does not delay the completion of any repairs, and does not adversely affect the proceeds available to pay for damage to any other UNIT.

10.7 Proceeds of Casualty Insurance. In the case of damage to two or more UNITS, the proceeds of any casualty insurance policy shall be held by the ASSOCIATION for the benefit of the OWNERS of damaged UNITS and their mortgagees. In the case of casualty insurance purchased by the ASSOCIATION, the proceeds shall be allocated among the damaged UNITS in direct proportion to the cost of the repairs covered by the insurance. In the case of casualty insurance purchased by the OWNERS, and the proceeds shall be allocated among the damaged UNITS in direct proportion to the amount paid by each OWNER's policy.

10.8 Deductible. In the event the ASSOCIATION purchases casualty insurance for the UNITS, then the cost required to repair any damage to the PRINCIPAL COMPONENTS of any damaged UNIT up to the amount of any deductible (the "Deductible Cost") shall be paid as follows:

10.8.1 If there is a separate deductible for each UNIT, then the owner of any damaged UNIT shall be responsible for the Deductible Cost for the UNIT.

10.8.2 If there is a separate deductible for each BUILDING, then the deductible amount divided by the number of UNITS in the BUILDING will be equal to the "Per Unit Deductible Amount". The OWNER of each damaged UNIT in a damaged BUILDING shall be liable for an amount of the Deductible Cost, up to the Per Unit Deductible Amount, and the remaining OWNERS of UNITS in the BUILDING shall be liable for an equal share of the remaining Deductible Cost of the damage to the BUILDING, if any.

10.8.3 If there is a single deductible for all or a group of UNITS, regardless of the number of UNITS or BUILDINGS which are damaged, then the deductible amount divided by the number of UNITS in the SUBJECT PROPERTY or group will be equal to the "Per Unit Deductible Amount". The OWNER of each damaged UNIT shall be liable for an amount of the Deductible Cost, up to the Per Unit Deductible Amount, and the remaining OWNERS of UNITS in the SUBJECT PROPERTY or group shall be liable for an equal share of the remaining Deductible Cost of the damage to the BUILDINGS, if any. Notwithstanding anything contained herein to the contrary, at the option of DECLARANT, any LOTS owned by DECLARANT which do not contain a UNIT, and any UNITS within a BUILDING that is wholly owned by DECLARANT, shall be excluded from the payment of the Deductible COST, and in that event DECLARANT shall be solely responsible for the payment of any deductible relating to such LOTS and UNITS.

10.9 Inadequate Insurance Proceeds. If the proceeds of any casualty insurance policy purchased by an OWNER of a damaged UNIT are insufficient to pay the cost of repairing any PRINCIPAL DAMAGE to the UNIT or any other damage to the UNIT to be repaired by the ASSOCIATION, or if the OWNER has failed to obtain such insurance where such insurance is not purchased by the ASSOCIATION, or if the OWNER's insurance company fails to pay the proceeds of the insurance to the ASSOCIATION when required in order to pay for any repairs of the PRINCIPAL DAMAGE or any repairs to the UNIT to be made by the ASSOCIATION, the OWNER shall be required to deposit funds with the ASSOCIATION sufficient to pay for the cost of repairing any PRINCIPLE DAMAGE or any other damage to the UNIT to be repaired by the ASSOCIATION. If the proceeds of any casualty insurance policy purchased by the ASSOCIATION allocated to any damaged UNIT are insufficient to pay the cost of repairing any PRINCIPAL DAMAGE or any other damage to the UNIT to be repaired by the ASSOCIATION, the OWNER of the UNIT shall be required to deposit funds with the ASSOCIATION sufficient to pay for the cost of repairing any PRINCIPLE DAMAGE or any other damage to the OWNER'S UNIT to be repaired by the ASSOCIATION. If any OWNER fails or refuses for any reason to deposit such funds, or to pay for the repair of any PRINCIPAL DAMAGE or other damage to the OWNER's UNIT to be repaired by the ASSOCIATION, the

ASSOCIATION shall have the right but not the obligation to pay same on behalf of the OWNER. In that event any funds advanced by the ASSOCIATION shall be assessed against the applicable OWNER, and the ASSOCIATION may collect such ASSESSMENT and have a lien for same as elsewhere provided. In any event, the ASSOCIATION shall not have the obligation to make any repairs to a UNIT if the OWNER fails to deposit funds sufficient to pay for same as required herein.

10.10 Use of Insurance Proceeds. All insurance proceeds allocated to the repair of a UNIT, and other funds paid by an OWNER on account of damage to the OWNER's UNIT, or at the election of the ASSOCIATION so much thereof as is determined by the ASSOCIATION to be reasonably necessary to repair the PRINCIPAL DAMAGE and any other damage to the UNIT that will be repaired by the ASSOCIATION, shall be placed in a separate account of the ASSOCIATION to be used to repair the damage to the UNIT, and the OWNERS of any damaged UNIT(S) shall execute any documents or releases required to release the proceeds of any insurance to the ASSOCIATION. If the ASSOCIATION repairs the PRINCIPAL DAMAGE or any other damage to the UNIT, the ASSOCIATION shall have the right to use the funds in the account to pay for same. If the ASSOCIATION permits the OWNER to repair any damage to the UNIT, then the ASSOCIATION shall disburse funds in the account for the repair work as same is completed, provided their are sufficient funds in the account to pay for any repair of any PRINCIPAL DAMAGE or repairs to be made by the ASSOCIATION. The ASSOCIATION may release any funds in the account of an OWNER for the payment of the repair of any damage to the UNIT other than PRINCIPAL DAMAGE, provided the ASSOCIATION determines the funds remaining in the account are sufficient to pay for the repair of the PRINCIPAL DAMAGE.

10.11 Surplus. If there is a balance in the account allocated to any UNIT after payment of all costs of the reconstruction and repair of the UNIT, such balance shall be distributed to the OWNER of the UNIT. If there is a mortgage upon a LOT, the distribution shall be paid to the OWNER and the mortgagee jointly and they may use the proceeds as they may determine, except, however, that the part of a distribution to an OWNER which is not in excess of money's paid by such OWNER shall not be made payable to any mortgagee.

10.12 Insurance trustee. If the amount of the estimated costs of reconstruction and repair which is the responsibility of the ASSOCIATION is more than Twenty-five Thousand ($25,000.00) Dollars, then the funds held by the ASSOCIATION shall be deposited with a bank, title insurance company, or other financial institution approved by a majority of the votes of the OWNERS of the damaged UNITS, or in the case of damage to the COMMON AREAS by a majority of votes of all of the OWNERS appearing at a meeting called for such purpose (the "Insurance Trustee"). The Insurance Trustee shall not be liable for payment of premiums or for the renewal or sufficiency of the policies or for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and hold the same in trust for the purposes elsewhere stated herein and for the benefit of the OWNERS and their respective mortgagees. The construction funds shall be disbursed in payment of such costs in the manner required by the ASSOCIATION and upon approval of an architect qualified to practice in the State of Florida and employed by the ASSOCIATION to supervise the work.

10.13 Certificate. Notwithstanding the provisions herein, the Insurance Trustee shall not be required to determine whether or not sums paid by OWNERS shall be deposited by the ASSOCIATION with the Insurance Trustee, nor to determine whether the disbursements are to be upon the order of the ASSOCIATION or upon approval of an architect or otherwise, nor whether a disbursement is to be made, nor to determine the payee nor the amount to be paid, nor to determine whether surplus funds to be distributed are less than the amounts paid by OWNERS. Instead, the Insurance Trustee may rely upon a certificate of the ASSOCIATION executed by its President and Secretary as to any or all of such matters and stating that the sums to be paid are due and properly payable, and stating the name of the payee and the amount to be paid.

10.14 Notwithstanding anything contained herein to the contrary,, so long as DECLARANT is building UNITS within the SUBJECT PROPERTY, DECLARANT shall have the right to repair any damage

to the UNITS or the COMMON AREAS, and may use the proceeds of any casualty insurance policy or other funds paid by the OWNERS therefore.

11. PARTY WALLS.

11.1 Party Walls. Each common wall shared by two (2) UNITS which divides the two (2) UNITS shall be a party wall for the perpetual benefit of and use by the OWNERS of the two (2) UNITS, including their respective heirs, assigns, successors and grantees.

11.2 Easement for Encroachment. Each OWNER hereby grants to the OWNER of the adjacent UNIT(S) an easement for the continuance of any encroachment of the party wall on the adjoining UNIT existing as a result of the construction of the party wall, or which may come into existence thereafter as a result of settling or shifting of the party wall, or as a result of repair or reconstruction of the party wall.

11.3 Repair and Maintenance. Except as otherwise provided herein, each OWNER shall bear the responsibility to repair and maintain the unfinished surface of the exterior portion of the party wall which is located within his UNIT. As to the structural and interior portions of the party wall, each OWNER shall share equally in the cost of the repair, maintenance and reconstruction of same. However, if any OWNER's negligence or willful misconduct causes damage to or destruction of a party wall, such negligent or willfully mischievous OWNER shall bear the entire cost of repairing or reconstructing the party wall. If an OWNER executes a mortgage encumbering his UNIT, then the holder of the mortgage shall have the full right, at its option, to exercise the rights of its mortgagor as an OWNER hereunder and, in addition, the right to add to the outstanding balance of such mortgage any amounts paid by the mortgagee for repairs or reconstruction and not reimbursed to the mortgagee by the OWNER.

11.4 Easement for Repairs. Each OWNER shall have the right to enter into an adjacent UNIT where necessary in connection with the repair, maintenance or reconstruction of a party wall, at reasonable times and upon reasonable notice. The foregoing right shall constitute an easement and a covenant running with the land.

11.5 Materials, Location and Size. Whenever a party wall is to be repaired, maintained or reconstructed, same shall be performed with the same or similar materials and quality as the original party wall. Whenever a party wall or any part thereof shall be reconstructed, it shall be reconstructed such that it shall be of the same size and shall be at the same location as initially constructed, and shall be of the same or similar materials and quality as used to initially construct the party wall.

11.6 Use. Each OWNER shall have the right to the full use of the party wall for whatever purposes he chooses, subject to the limitation that such use shall not infringe upon the rights of the OWNER of the adjoining UNIT, or his enjoyment of the party wall, or in any manner impair the structure of the party wall. The term "use" shall and does include normal interior usage such as paneling, plastering, painting, decorating and erection of tangent walls and shelving, but prohibits any form of alteration (other than a minor alteration) which would cause an aperture, hole, break or other displacement of the original structure forming the party wall. Additionally, each OWNER shall not cut windows or other openings in the party wall, nor make any hereinabove prohibited alterations, additions or structural changes to the party wall unless agreed upon by both OWNERS sharing the party wall, and unless same is approved in writing by the ASSOCIATION.

12. ASSESSMENT FOR COMMON EXPENSES.

12.1 PAYMENT OF ASSESSMENTS. Each OWNER of a UNIT shall be responsible for the payment to the ASSOCIATION of ASSESSMENTS for COMMON EXPENSES for each UNIT owned by the OWNER, which amount shall be assessed to the OWNER as described below. In addition, each OWNER shall be responsible for the payment to the ASSOCIATION of any ASSESSMENTS owed by the prior

OWNER, except for any ASSESSMENTS owed by DECLARANT, and except as otherwise provided in this DECLARATION.

12.2 Budget. Prior to the beginning of each fiscal year of the ASSOCIATION, the BOARD shall adopt a budget for such fiscal year which shall estimate all of the COMMON EXPENSES to be incurred by the ASSOCIATION during the fiscal year. The BOARD shall then establish the ASSESSMENT for COMMON EXPENSES for each UNIT, which except as otherwise set forth herein shall be equal and shall be determined by dividing the total amount to be assessed for COMMON EXPENSES by the number of UNITS for which ASSESSMENTS for COMMON EXPENSES are to be made pursuant to the budget. The ASSOCIATION shall then notify each OWNER in writing of the amount, frequency and due dates of the ASSESSMENT for COMMON EXPENSES. From time to time during the fiscal year, the BOARD may modify the budget, and pursuant to the revised budget or otherwise, the BOARD may, upon written notice to the OWNERS, change the amount, frequency and/or due dates of the ASSESSMENTS for COMMON EXPENSES. If the expenditure of funds for COMMON EXPENSES is required in addition to funds produced by regular ASSESSMENTS for COMMON EXPENSES, the BOARD may make special ASSESSMENTS for COMMON EXPENSES, which may include ASSESSMENTS to provide funds to pay for an existing or proposed deficit of the ASSOCIATION, or for any additions, alterations, or improvements to any COMMON AREA, or for any other purpose. Special ASSESSMENTS for COMMON EXPENSES shall be levied in the same manner as hereinbefore provided for regular ASSESSMENTS, and shall be payable in one lump sum or as otherwise determined by the BOARD in its sole discretion and as stated in the notice of any special ASSESSMENT for COMMON EXPENSES. In the event any ASSESSMENTS for COMMON EXPENSES are made payable in equal periodic payments, as provided in the notice from the ASSOCIATION, such periodic payments shall automatically continue to be due and payable in the same amount and frequency unless and until (i) the notice specifically provides that the periodic payments will terminate or change upon the occurrence of a specified event or date or the payment of the specified amount, or (ii) the ASSOCIATION notifies the OWNER in writing of a change in the amount and/or frequency of the periodic payments. In no event shall any ASSESSMENTS for COMMON EXPENSES be due less than ten (10) days from the date of the notification of such ASSESSMENTS.

12.3 Lot Assessments For Common Expenses. ASSESSMENTS for COMMON EXPENSES shall not be payable with respect to any LOT not containing a UNIT unless required by law, and in the event the OWNER of any LOT not containing a UNIT is required by law to pay ASSESSMENTS for COMMON EXPENSES same shall be 10% of the ASSESSMENTS for COMMON EXPENSES for a LOT containing a UNIT, and except for the foregoing, the ASSESSMENTS for COMMON EXPENSES against each LOT shall be equal. The full ASSESSMENT for COMMON EXPENSES as to each LOT upon which a UNIT is constructed shall commence on the first day of the third full calendar month after a certificate of occupancy for the UNIT is issued, or upon the conveyance of the LOT by DECLARANT or by the builder of the UNIT on the LOT, or upon the first occupancy of the UNIT, whichever occurs first.

12.4 Additional Assessments. In addition to ASSESSMENTS for COMMON EXPENSES, after a certificate of occupancy for a UNIT constructed upon a LOT is issued by the controlling governmental authority, upon the first to occur of the next conveyance of the LOT or the first occupancy of the UNIT, the OWNER of the LOT shall pay to the ASSOCIATION a contribution to a working capital fund of the ASSOCIATION in an amount equal to $350.00, which shall be in addition to the OWNER's responsibility for ASSESSMENTS for COMMON EXPENSES. The working capital fund shall be used by the ASSOCIATION for start-up expenses or otherwise as the ASSOCIATION shall determine from time to time and need not be restricted or accumulated.

12.5 Extent of Declarant's Liability for Assessments. Notwithstanding the foregoing, until such time as DECLARANT no longer appoints a majority of the directors of the ASSOCIATION, or until DECLARANT notifies the ASSOCIATION in writing that DECLARANT elects to pay ASSESSMENTS for COMMON EXPENSES as in the case of any other OWNER, DECLARANT shall not be liable for ASSESSMENTS for COMMON EXPENSES for any LOTS owned by DECLARANT, but in lieu thereof, DECLARANT shall be responsible for all COMMON EXPENSES actually incurred by the ASSOCIATION in excess of the

ASSESSMENTS for COMMON EXPENSES and any other income receivable by the ASSOCIATION, including working capital fund contributions. During such period when DECLARANT is not liable for ASSESSMENTS for COMMON EXPENSES for LOTS owned by DECLARANT, the ASSESSMENTS for COMMON EXPENSES shall be established by DECLARANT based upon DECLARANT's estimate of what the expenses of the ASSOCIATION would be if all UNITS and IMPROVEMENTS contemplated within the SUBJECT PROPERTY were completed, so that ASSESSMENTS for COMMON EXPENSES during such period will be approximately what said ASSESSMENTS would be if the development of the SUBJECT PROPERTY as contemplated by DECLARANT was complete. Notwithstanding the foregoing, in the event the ASSOCIATION incurs any expense not ordinarily anticipated in the day-to-day management and operation of the SUBJECT PROPERTY, including but not limited to expenses incurred in connection with lawsuits against the ASSOCIATION, or incurred in connection with damage to property, or injury or death to any person, which are not covered by insurance proceeds, the liability of DECLARANT for such COMMON EXPENSES shall not exceed the amount that DECLARANT would be required to pay if it was liable for ASSESSMENTS for COMMON EXPENSES as any other OWNER, and any excess amounts payable by the ASSOCIATION shall be assessed to the other OWNERS.

12.6 Notwithstanding anything contained herein to the contrary, during the period when DECLARANT is not liable for ASSESSMENTS for COMMON EXPENSES the ASSOCIATION will not be required to fund any reserve or other accounts shown in the ASSOCIATION's budget, and may use funds otherwise allocated for such reserve or other accounts to pay for the COMMON EXPENSES incurred by the ASSOCIATION. Thereafter the ASSOCIATION will only be required to fund that portion of any reserve account or other account which is reflected in the budget which is attributable to UNITS owned by UNIT OWNERS other than DECLARANT.

12.7 Exclusion for Expenses Relating to Completed UNITS. Notwithstanding anything contained herein to the contrary, in the event the ASSOCIATION incurs any expense which by its nature is applicable only to a completed UNIT, such expense shall only be assessed to and payable by the OWNERS of completed UNITS, and shall not be included within any ASSESSMENTS payable by any OWNER of a LOT not containing a completed UNIT. Such expenses include, for example, expenses for cable television, or expenses relating to the maintenance of landscaping upon any LOT or the maintenance of any exterior of a UNIT, which may be incurred pursuant to this DECLARATION.

12.8 Special Provisions Regarding Landscaping and Sprinkler System Maintenance. ASSESSMENTS shall be assessed equally among the LOTS, regardless of the size of any particular LOT.

12.9 Special Provisions for BUILDING maintenance. As provided above, the cost of providing exterior maintenance or other services for any particular BUILDING shall be assessed only to the OWNERS of UNITS within the BUILDING being maintained, and shall be assessed equally among such OWNERS.

12.10 Special Provisions Regarding Expenses only Benefiting Some Units. Notwithstanding anything contained herein to the contrary, if the ASSOCIATION incurs any expense which only benefits or applies to some of the UNITS and not others, such expense may be assessed only to the OWNERS of UNITS benefited by such expense. For example, if the ASSOCIATION provides trash compactors or receptacles for some of the UNITS, the cost of same may be assessed only to the OWNERS of the UNITS permitted to use same.

13. DEFAULT.

13.1 Monetary Defaults and Collection of Assessments.

13.1.1 Late Fees and Interest. If any ASSESSMENT is not paid within ten (10) days after the due date, or if any check for any ASSESSMENT is dishonored, the ASSOCIATION shall have the right to charge the applicable OWNER a late or bad check fee of ten (10%) percent of the amount of the ASSESSMENT, or Twenty-Five ($25.00) Dollars, whichever is greater, plus interest at the then highest rate of interest allowable by law from the due date until paid. If there is no due date applicable to any particular ASSESSMENT, then the ASSESSMENT shall be due ten (10) days after written demand by the ASSOCIATION.

13.1.2 Acceleration of ASSESSMENTS. If any OWNER is in default in the payment of any ASSESSMENT owed to the ASSOCIATION for more than 30 days after written demand by the ASSOCIATION, the ASSOCIATION upon written notice to the defaulting OWNER shall have the right to accelerate and require such defaulting OWNER to pay to the ASSOCIATION ASSESSMENTS for COMMON EXPENSES for the next twelve (12) month period, based upon the then existing amount and frequency of ASSESSMENTS for COMMON EXPENSES, plus interest at the highest rate permitted by law from the date of such notice until the accelerated ASSESSMENTS for COMMON EXPENSES are paid. In the event of such acceleration, the defaulting OWNER shall continue to be liable for any increases in the regular ASSESSMENTS for COMMON EXPENSES, for all special ASSESSMENTS for COMMON EXPENSES, and/or for all other ASSESSMENTS payable to the ASSOCIATION.

13.1.3 Lien for ASSESSMENTS. The ASSOCIATION has a lien on each LOT for unpaid ASSESSMENTS owed to the ASSOCIATION by the OWNER of such LOT, and for late fees and interest, and for reasonable attorneys' fees incurred by the ASSOCIATION incident to the collection of the ASSESSMENT or enforcement of the lien, and all sums advanced and paid by the ASSOCIATION for taxes and payment on account of superior mortgages, liens or encumbrances in order to preserve and protect the ASSOCIATION's lien. The lien is effective from and after recording a claim of lien in the public records in the county in which the LOT is located, stating the description of the LOT, the name of the record OWNER, and the amount due as of the recording of the claim of lien. A recorded claim of lien shall secure all sums set forth in the claim of lien, together with all ASSESSMENTS or other moneys owed to the ASSOCIATION by the OWNER until the lien is satisfied. The lien is in effect until all sums secured by it have been fully paid or until the lien is barred by law. The claim of lien must be signed and acknowledged by an officer or agent of the ASSOCIATION. Upon payment in full of all sums secured by the lien, the person making the payment is entitled to a satisfaction of the lien in recordable form.

13.1.4 Collection and Foreclosure. The ASSOCIATION may bring an action in its name to foreclose a lien for ASSESSMENTS in the manner a mortgage of real property is foreclosed and may also bring an action to recover a money judgment for the unpaid ASSESSMENTS without waiving any claim of lien, and the applicable OWNER shall be liable to the ASSOCIATION for all costs and expenses incurred by the ASSOCIATION in connection with the collection of any unpaid ASSESSMENTS, and the filing, enforcement, and/or foreclosure of the ASSOCIATION'S lien, including reasonable attorneys' fees whether or not incurred in legal proceedings, and all sums paid by the ASSOCIATION for taxes and on account of any other mortgage, lien, or encumbrance in order to preserve and protect the ASSOCIATION'S lien. The BOARD is authorized to settle and compromise the ASSOCIATION'S lien if the BOARD deems a settlement or compromise to be in the best interest of the ASSOCIATION.

13.1.5 Rental and Receiver. If an OWNER remains in possession of his UNIT and the claim of lien of the ASSOCIATION against his LOT is foreclosed, the court, in its discretion, may require the OWNER to pay a reasonable rental for the UNIT, and the ASSOCIATION is entitled to the appointment of a receiver to collect the rent.

13.1.6 Subordination of Lien. Where any person obtains title to a LOT pursuant to the foreclosure of a first mortgage of record, or where the holder of a first mortgage accepts a deed to a LOT in lieu of foreclosure of the first mortgage of record of such lender, such acquirer of title, its successors and assigns, shall not be liable for any ASSESSMENTS or for other moneys owed to the ASSOCIATION which are chargeable to the former OWNER of the LOT and which became due prior to acquisition of title as a result of the foreclosure or deed in lieu thereof, unless the payment of such funds is secured by a claim of lien recorded prior to the recording of the foreclosed or underlying mortgage. The unpaid ASSESSMENTS or other moneys are COMMON EXPENSES collectable from all of the OWNERS, including such acquirer and his successors and assigns. The new OWNER, from and after the time of acquiring such title, shall be liable for payment of all future ASSESSMENTS for COMMON EXPENSES and such other expenses as may be assessed to the OWNER's LOT. Any person who acquires a LOT, except through foreclosure of a first mortgage of record or deed in lieu thereof, including, without limitation, persons acquiring title by sale, gift, devise, operation of law or by purchase at a judicial or tax sale, shall be liable for all unpaid ASSESSMENTS and other moneys due and owing by the former OWNER to the ASSOCIATION, and shall not be entitled to occupancy of the UNIT or enjoyment of the COMMON AREAS, or of the recreational facilities as same may exist from time to time, until such time as all unpaid ASSESSMENTS and other moneys have been paid in full.

13.1.7 Assignment of Claim and Lien Rights. The ASSOCIATION, acting through its BOARD, shall have the right to assign its claim and lien rights for the recovery of any unpaid ASSESSMENTS and any other moneys owed to the ASSOCIATION, to any third party.

13.1.8 Unpaid ASSESSMENTS Certificate. Within 15 days after written request by any OWNER or any INSTITUTIONAL LENDER holding or making a mortgage encumbering any LOT, the ASSOCIATION shall provide the OWNER or INSTITUTIONAL LENDER a written certificate as to whether or not the OWNER of the LOT is in default with respect to the payment of ASSESSMENTS or with respect to compliance with the terms and provisions of this DECLARATION, and any person or entity who relies on such certificate in purchasing or in making a mortgage loan encumbering any LOT shall be protected thereby.

13.1.9 Application of Payments. Any payments made to the ASSOCIATION by any OWNER shall first be applied towards any sums advanced and paid by the ASSOCIATION for taxes and payment on account of superior mortgages, liens or encumbrances which may have been advanced by the ASSOCIATION in order to preserve and protect its lien, next toward reasonable attorneys' fees incurred by the ASSOCIATION incidental to the collection of assessments and other moneys owed to the ASSOCIATION by the OWNER and/or for the enforcement of its lien; next towards interest on any ASSESSMENTS or other moneys due to the ASSOCIATION, as provided herein, and next towards any unpaid ASSESSMENTS owed to the ASSOCIATION, in the inverse order that such ASSESSMENTS were due.

13.1.10 Exception for DECLARANT. Notwithstanding the foregoing, DECLARANT shall not be liable for any interest or late fees for any ASSESSMENTS or other funds owed to the ASSOCIATION, and the ASSOCIATION shall not have a lien against any LOT for any ASSESSMENTS or other monies owed to the ASSOCIATION by DECLARANT.

13.1.11 Suspension of Voting Rights. The ASSOCIATION may suspend the voting rights of any OWNER for the nonpayment of regular ASSESSMENTS for COMMON EXPENSES that are delinquent for more than 90 days.

13.2 Non-Monetary Defaults. In the event of a violation by any OWNER or any tenant of an OWNER, or any person residing with them, or their guests or invitees, (other than the non-payment of any ASSESSMENT or other moneys) of any of the provisions of this DECLARATION, the ARTICLES, the BYLAWS or the Rules and Regulations of the ASSOCIATION, the ASSOCIATION shall notify the OWNER and any tenant of the OWNER of the violation, by written notice. If such violation is not cured as soon as practicable and in any event within seven (7) days after such written notice, or if the violation is not capable of being cured within such seven (7) day period, if the OWNER or tenant fails to commence and diligently proceed to completely cure such violation as soon as practicable within seven (7) days after written notice by the ASSOCIATION, or if any similar violation is thereafter repeated, the ASSOCIATION may, at its option:

13.2.1 Fine the OWNER or tenant as provided below and/or suspend, for a reasonable period of time, the rights of an OWNER or an OWNER'S tenants, guests, or invitees, or both, to use the COMMON AREAS (but such suspension shall not impair the right of an OWNER or tenant to have vehicular and pedestrian access to and from the OWNER'S LOT, including, but not limited to, the right to park); and/or

13.2.2 Commence an action to enforce the performance on the part of the OWNER or tenant, or for such equitable relief as may be necessary under the circumstances, including injunctive relief; and/or

13.2.3 Commence an action to recover damages; and/or

13.2.4 Take any and all actions reasonably necessary to correct such failure, which action may include, where applicable, but is not limited to, removing any addition, alteration, improvement or change which has not been approved by the ASSOCIATION, or performing any maintenance required to be performed by this DECLARATION.

All expenses incurred by the ASSOCIATION in connection with the correction of any failure, plus a service charge of ten (10%) percent of such expenses, and all expenses incurred by the ASSOCIATION in connection with any legal proceedings to enforce this DECLARATION, including reasonable attorneys' fees whether or not incurred in legal proceedings, shall be assessed against the applicable OWNER, and shall be due upon written demand by the ASSOCIATION. The ASSOCIATION shall have a lien for any such ASSESSMENT and any interest, costs or expenses associated therewith, including attorneys' fees incurred in connection with such ASSESSMENT, and may take such action to collect such ASSESSMENT or foreclose said lien as in the case and in the manner of any other ASSESSMENT as provided above. Any such lien shall only be effective from and after the recording of a claim of lien in the public records of the County in which the SUBJECT PROPERTY is located.

13.3 Fines and Suspensions.

13.3.1 The amount of any fine shall not exceed $50.00 per violation, or such other amount as is permitted by law. Notwithstanding the foregoing, if any violation of this DECLARATION or the Rules and Regulations is of a continuing nature, and if the OWNER or tenant fails to cure any continuing violation within 30 days after written notice of such violation, or if such violation is not capable of being cured within such 30 day period, if the OWNER or tenant fails to commence action reasonably necessary to cure the violation within such 30 day period or shall thereafter fail to diligently proceed to cure the violation as soon as is reasonably practical, in addition to the initial fine a daily fine may be imposed until the violation is cured in an amount not to exceed $10.00 per day, to the extent permitted by law.

13.3.2 Prior to imposing any suspension or fine, the OWNER or tenant shall be given written notice of the fact that the ASSOCIATION is considering the imposition of the suspension or fine, including (i) a statement of the provisions of the DECLARATION, BYLAWS or Rules and Regulations which have allegedly been violated, (ii) the proposed length of the suspension or amount of the fine, and (iii) the

right of the OWNER or tenant to request a hearing by written request to the ASSOCIATION within 14 days after the ASSOCIATION's notice. If the OWNER or tenant desires a hearing, they must so notify the ASSOCIATION in writing within 14 days after the ASSOCIATION's notice, and in that event a hearing shall be held in accordance with applicable law upon not less than 14 days written notice to the OWNER or tenant. At the hearing, the OWNER or tenant shall have an opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved, and the suspension or fine previously imposed may be approved, disapproved or modified. If the OWNER or tenant fails to timely request a hearing, or fails to attend the hearing, the proposed fine or suspension set forth in the ASSOCIATION's notice shall be deemed imposed.

13.3.3 Any fine imposed shall be due and payable within ten (10) days after written notice of the imposition of the fine, or if a hearing is timely requested within ten (10) days after the decision at the hearing. Any fine levied against an OWNER shall be deemed an ASSESSMENT, and if not paid when due all of the provisions of this DECLARATION relating to the late payment of ASSESSMENTS shall be applicable. In any event, the ASSOCIATION shall not have the right to impose any suspension or fine against DECLARANT or any builder of new homes within the SUBJECT PROPERTY.

13.3.4 The BOARD may, and to the extent required by law shall, delegate the right to impose suspension or fines, set the amount thereof, and/or conduct hearings pursuant to this paragraph, to a Committee of the ASSOCIATION.

13.4 Negligence. An OWNER shall be liable and may be assessed by the ASSOCIATION for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness, to the extent otherwise provided by law and to the extent that such expense is not met by the proceeds of insurance carried by the ASSOCIATION. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a LOT or UNIT, or the COMMON AREAS.

13.5 Responsibility of an OWNER for Occupants, Tenants, Guests, and Invitees. To the extent otherwise provided by law, each OWNER shall be responsible for the acts and omissions, whether negligent or willful, of any person residing in his UNIT, and for all guests and invitees of the OWNER or any such resident, and in the event the acts or omissions of any of the foregoing shall result in any damage to the COMMON AREAS, or any liability to the ASSOCIATION, the OWNER shall be assessed for same as in the case of any other ASSESSMENT, limited where applicable to the extent that the expense or liability is not met by the proceeds of insurance carried by the ASSOCIATION. Furthermore, any violation of any of the provisions of this DECLARATION, of the ARTICLES, or the BYLAWS, by any resident of any UNIT, or any guest or invitee of an OWNER or any resident of a UNIT, shall also be deemed a violation by the OWNER, and shall subject the OWNER to the same liability as if such violation was that of the OWNER.

13.6 Right of ASSOCIATION to Evict Tenants, Occupants, Guests and Invitees. With respect to any tenant or any person present in any UNIT or any portion of the SUBJECT PROPERTY, other than an OWNER and the members of his immediate family permanently residing with him in the UNIT, if such person shall materially violate any provision of this DECLARATION, the ARTICLES, or the BYLAWS, or shall create a nuisance or an unreasonable and continuous source of annoyance to the residents of the SUBJECT PROPERTY, or shall willfully damage or destroy any COMMON AREAS or personal property of the ASSOCIATION, then upon written notice by the ASSOCIATION such person shall be required to immediately leave the SUBJECT PROPERTY and if such person does not do so, the ASSOCIATION is authorized to commence an action to evict such tenant or compel the person to leave the SUBJECT PROPERTY and, where necessary, to enjoin such person from returning. The expense of any such action, including attorneys' fees, may be assessed against the applicable OWNER, and the ASSOCIATION may collect such ASSESSMENT and have a lien for same as elsewhere provided. The foregoing shall be in addition to any other remedy of the ASSOCIATION.

13.7 No Waiver. The failure of the ASSOCIATION to enforce any right, provision, covenant or condition which may be granted by this DECLARATION, the ARTICLES, or the BYLAWS, shall not constitute a waiver of the right of the ASSOCIATION to enforce such right, provision, covenant or condition in the future.

13.8 Rights Cumulative. All rights, remedies and privileges granted to the ASSOCIATION pursuant to any terms, provisions, covenants or conditions of this DECLARATION, the ARTICLES or the BYLAWS, shall be deemed to be cumulative, and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the ASSOCIATION from executing any additional remedies, rights or privileges as may be granted or as it might have by law.

13.9 Enforcement By or Against other Persons. In addition to the foregoing, this DECLARATION may be enforced by DECLARANT (so long as DECLARANT is an OWNER), or the ASSOCIATION, by any procedure at law or in equity against any person violating or attempting to violate any provision herein, to restrain such violation, to require compliance with the provisions contained herein, to recover damages, or to enforce any lien created herein. The expense of any litigation to enforce this DECLARATION, including attorneys' fees, shall be borne by the person against whom enforcement is sought, provided such proceeding results in a finding that such person was in violation of this DECLARATION. In addition to the foregoing, any OWNER shall have the right to bring an action to enforce this DECLARATION against any person violating or attempting to violate any provision herein, to restrain such violation or to require compliance with the provisions contained herein, but no OWNER shall be entitled to recover damages or to enforce any lien created herein as a result of a violation or failure to comply with the provisions contained herein by any person, and the prevailing party in any such action shall be entitled to recover its reasonable attorneys' fees.

14. TERM OF DECLARATION. All of the foregoing covenants, conditions, reservations and restrictions shall run with the land and continue and remain in full force and effect at all times as against all OWNERS, their successors, heirs or assigns, regardless of how the OWNERS acquire title, for a period of fifty (50) years from the date of this DECLARATION, unless within such time, one hundred (100%) percent of the OWNERS execute a written instrument declaring a termination of this DECLARATION (as it may have been amended from time to time). After such fifty (50) year period, unless sooner terminated as provided above, these covenants, conditions, reservations and restrictions shall be automatically extended for successive periods of ten (10) years each, until a majority of the votes of the entire membership of the ASSOCIATION execute a written instrument declaring a termination of this DECLARATION (as it may have been amended from time to time). Any termination of this DECLARATION shall be effective on the date the instrument of termination is recorded in the public records of the county in which the SUBJECT PROPERTY is located, provided, however, that any such instrument, in order to be effective, must be approved in writing and signed by the DECLARANT so long as the DECLARANT owns any LOT, or holds any mortgage encumbering any LOT.

15. AMENDMENT.

15.1 This DECLARATION may be amended upon the approval of not less than 2/3 of the OWNERS, except that if any provision of this DECLARATION requires more than a 2/3 vote of the OWNERS to approve any action, such provision may not be amended to require a lesser vote, and may not be deleted, without the same number of votes required to approve such action. In addition, so long as DECLARANT has the right to appoint a majority of the directors of the Association as provided in the ARTICLES, this DECLARATION may be amended from time to time, by DECLARANT and without the consent of the ASSOCIATION or any OWNER, and no amendment may be made by the OWNERS without the written joinder of DECLARANT. Such right of DECLARANT to amend this DECLARATION shall specifically include, but shall not be limited to, (i) amendments adding any property which will be developed in a similar manner as the SUBJECT PROPERTY, or deleting any property from the SUBJECT PROPERTY which will be developed differently than the SUBJECT PROPERTY (provided that any such amendment shall require the joinder of the owners of such property or any portion thereof if the owners are different than

DECLARANT, and further provided that DECLARANT shall not have the obligation to add any property to or delete any property from the SUBJECT PROPERTY), and (ii) amendments required by any INSTITUTIONAL LENDER or governmental authority in order to comply with the requirements of same. In order to be effective, any amendment to this DECLARATION must first be recorded in the public records of the county in which the SUBJECT PROPERTY is located, and in the case of an amendment made by the OWNERS, such amendment shall contain a certification by the President and Secretary of the ASSOCIATION that the amendment was duly adopted.

15.2 No amendment shall discriminate against any OWNER or class or group of OWNERS, unless the OWNERS so affected join in the execution of the amendment. No amendment shall change the number of votes of any OWNER or increase any OWNER's proportionate share of the COMMON EXPENSES, unless the OWNERS affected by such amendment join in the execution of the amendment. No amendment may prejudice or impair the priorities of INSTITUTIONAL LENDERS granted hereunder unless all INSTITUTIONAL LENDERS join in the execution of the amendment. No amendment shall make any changes which would in any way affect any of the rights, privileges, powers or options herein provided in favor of, or reserved to, DECLARANT, unless DECLARANT joins in the execution of the amendment.

16. SPECIAL PROVISIONS REGARDING INSTITUTIONAL LENDERS.

16.1 Notice of Action. Upon written request to the ASSOCIATION by an INSTITUTIONAL LENDER holding, insuring or guaranteeing a first mortgage encumbering any LOT, identifying the name and address of the holder, insurer or guarantor and the LOT number or address, any such holder, insurer or guarantor will be entitled to timely written notice of:

16.1.1 Any condemnation or casualty loss which affects a material portion of the SUBJECT PROPERTY or the LOT;

16.1.2 Any 60-day default in the payment of ASSESSMENTS or charges owed to the ASSOCIATION or in the performance of any obligation hereunder by the OWNER of the LOT;

16.1.3 Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the ASSOCIATION;

16.1.4 Any proposed action which would require the consent of a specified percentage of INSTITUTIONAL LENDERS.

16.2 Consent of INSTITUTIONAL LENDERS. Whenever the consent or approval of any, all or a specified percentage or portion of the holder(s) of any mortgage(s) encumbering any LOTS is required by this DECLARATION, the ARTICLES, the BYLAWS, or any applicable statute or law, to any amendment of the DECLARATION, the ARTICLES, or the BYLAWS, or to any action of the ASSOCIATION, or to any other matter relating to the SUBJECT PROPERTY, the ASSOCIATION may request such consent or approval of such holder(s) by written request sent certified mail, return receipt requested (or equivalent delivery evidencing such request was delivered to and received by such holders). Any holder receiving such request shall be required to consent to or disapprove the matter for which the consent or approval is requested, in writing, by certified mail, return receipt requested (or equivalent delivery evidencing such request was delivered to and received by the ASSOCIATION), which response must be received by the ASSOCIATION within 30 days after the holder receives such request, and if such response is not timely received by the ASSOCIATION, the holder shall be deemed to have consented to and approved the matter for which such approval or consent was requested. Such consent or approval given or deemed to have been given, where required, may be evidenced by an affidavit signed by all of the directors of the ASSOCIATION, which affidavit, where necessary may be recorded in the public records of the county where the SUBJECT PROPERTY is located, and which affidavit shall be conclusive evidence that the applicable consent or approval was given as to the matters therein contained. The foregoing shall not apply where an

INSTITUTIONAL LENDER is otherwise required to specifically join in an amendment to this DECLARATION.

16.3 Payment of Taxes and Insurance. Any INSTITUTIONAL LENDER may pay any taxes or assessments owed to any governmental authority by the ASSOCIATION which are in default, or any overdue insurance premiums required to be purchased by the ASSOCIATION pursuant to this DECLARATION, or may secure new insurance upon the lapse of a policy, and shall be owed immediate reimbursement therefor from the ASSOCIATION plus interest at the highest rate permitted by law and any costs of collection, including attorneys' fees.

17. MISCELLANEOUS.

17.1 Conflict with ARTICLES or BYLAWS. In the event of any conflict between the ARTICLES and the BYLAWS and this DECLARATION, this DECLARATION, the ARTICLES, and the BYLAWS, in that order, shall control.

17.2 Authority of ASSOCIATION and Delegation. Nothing contained in this DECLARATION shall be deemed to prohibit the BOARD from delegating to any one of its members, or to any officer, or to any committee or any other person, any power or right granted to the BOARD by this DECLARATION including, but not limited to, the right to exercise architectural control and to approve any deviation from any use restriction, and the BOARD is expressly authorized to so delegate any power or right granted by this DECLARATION.

17.3 Severability. The invalidation in whole or in part of any of these covenants, conditions, reservations and restrictions, or any section, subsection, sentence, clause, phrase, word or other provision of this DECLARATION shall not affect the validity of the remaining portions which shall remain in full force and effect.

17.4 Validity. In the event any court shall hereafter determine that any provisions as originally drafted herein violate the rule against perpetuities, the period specified in this DECLARATION shall not thereby become invalid, but instead shall be reduced to the maximum period allowed under such rules of law.

17.5 Assignment of DECLARANT's Rights. Any or all of the rights, privileges, or options provided to or reserved by DECLARANT in this DECLARATION, the ARTICLES, or the BYLAWS, may be assigned by DECLARANT, in whole or in part, as to all or any portion of the SUBJECT PROPERTY, to any person or entity pursuant to an assignment recorded in the public records of the county in which the SUBJECT PROPERTY is located. Any partial assignee of any of the rights of DECLARANT shall not be deemed the DECLARANT, and shall have no other rights, privileges or options other than as are specifically assigned. No assignee of DECLARANT shall have any liability for any acts of DECLARANT or any prior DECLARANT unless such assignee is assigned and agrees to assume such liability.

17.6 Performance of ASSOCIATION's Duties by DECLARANT. DECLARANT shall have the right from time to time, at its sole discretion, to perform at DECLARANT's expense the duties and obligations required hereunder to be performed by the ASSOCIATION, and in connection therewith to reduce the budget of the ASSOCIATION and the ASSESSMENTS for COMMON EXPENSES payable by the OWNER, provided however that any such performance on the part of DECLARANT may be discontinued by DECLARANT at any time, and any such performance shall not be deemed to constitute a continuing obligation on the part of DECLARANT.

17.7 Actions Against DECLARANT. The ASSOCIATION shall not institute any legal proceedings against DECLARANT, or any principal of DECLARANT, or any other person or entity related to or affiliated with DECLARANT or any principal of DECLARANT, or spend or commit to spend any ASSOCIATION funds in connection with such legal proceedings, or make a special ASSESSMENT for funds to pay for costs or

17.8 Actions Against DECLARANT. The ASSOCIATION shall not institute any legal proceedings against DECLARANT, or any principal of DECLARANT, or any other person or entity related to or affiliated with DECLARANT or any principal of DECLARANT, or spend or commit to spend any ASSOCIATION funds in connection with such legal proceedings, or make a special ASSESSMENT for funds to pay for costs or attorneys' fees in connection with any such legal proceedings, without the consent of 75% of the votes of all of the OWNERS obtained at a special meeting of the OWNERS called expressly for the purpose of approving such action, and without the consent of INSTITUTIONAL LENDERS holding a majority of the mortgages that encumber the LOTS.

17.9 FHA/VA Approval. Notwithstanding anything contained herein to the contrary, if any mortgage encumbering any LOT is guaranteed or insured by the Federal Housing Administration or by the Veterans Administration, then the following action, if made by DECLARANT or if made prior to the completion of 75% of the UNITS which may be built within the SUBJECT PROPERTY, must be approved by either such agency: (i) any annexation of additional property; (ii) any mortgage, transfer or dedication of any COMMON AREA; (iii) any amendment to this DECLARATION, the ARTICLES or the BYLAWS, or (iv) any merger, consolidation or dissolution of the ASSOCIATION. Such approval shall be deemed given if either agency fails to deliver written notice of its disapproval of any such action to DECLARANT or to the ASSOCIATION within 20 days after a request for such approval is delivered to the agency by certified mail, return receipt requested, or equivalent delivery, and such approval may be conclusively evidenced by a certificate of DECLARANT or the ASSOCIATION that the approval was given or deemed given.

17.10 Modification of Development Plan and Obligations With Respect to the Property Described. DECLARANT reserves the right at any time and from time to time to modify the development plan for all or any portion of the SUBJECT PROPERTY, and in connection therewith to develop UNITS which are different from the UNITS presently or hereafter planned from time to time, and in the event DECLARANT changes the type, size or nature of the UNITS or other improvements constructed within the SUBJECT PROPERTY, DECLARANT shall have no liability therefor to any OWNER. In addition, DECLARANT makes no representations or warranties as to the manner in which any other property outside of the SUBJECT PROPERTY will be developed, and shall have no liability to any OWNER as regards the development of any other property in or around the SUBJECT PROPERTY.

17.11 Utility Deposits. It is acknowledged that various utility deposits may be required for utility services for the COMMON AREAS which will be supplied as a COMMON EXPENSE, and in the event DECLARANT pays for such deposits, DECLARANT shall be entitled to reimbursement from the ASSOCIATION when funds are available for such reimbursement, and until DECLARANT is reimbursed for any deposits paid by it, DECLARANT shall be entitled to any refunds of any utility deposits from the appropriate authority holding same, and if any deposit is refunded to the ASSOCIATION, same shall be promptly paid to DECLARANT by the ASSOCIATION upon receipt.

IN WITNESS WHEREOF, DECLARANT has executed this DECLARATION this 4th day of JANUARY, 2006.

WITNESSES:

Print Name: ANGELA M ST. PIERRE

Print Name: Sheila COLON

EH/TRANSEASTERN, LLC, a Delaware limited liability company

By: _____

Its: Secretary

STATE OF FLORIDA)
) ss:
COUNTY OF Broward)

The foregoing instrument was acknowledged before me this 4th day of January, 2006 by Soraka Gengeon, as Secretary of EHP Transeastern, LLC, a Delaware limited liability company, on behalf of the company. He is personally known to me or has produced _____ as identification.

NOTARY PUBLIC
State of Florida at Large

My Commission Expires:

ANGELA M. ST PIERRE
Comm# DD0259890
Expires 10/19/2007
Bonded thru (800)432-4254
Florida Notary Assn., Inc

H:\4954\17310\DDeclarationofCovenantsandRestrictionsKendallPointeRevisedRC/rxc

JOINDER AND CONSENT OF KENDALL POINTE LAND DEVELOPMENT, LLC

The undersigned KENDALL POINTE LAND DEVELOPMENT, LLC hereby consents to, subordinates and subjects that certain real property it currently owns, more particularly described in the attached Exhibit "A" ("SUBJECT PROPERTY"), to the Declaration of Covenants and Restrictions of Kendall Pointe, recorded herewith, and all of the respective covenants, conditions, easements, restrictions, terms and provisions currently contained therein and as subsequently amended and modified, if applicable.

Any conveyance of the whole or a portion of the SUBJECT PROPERTY from KENDALL POINTE LAND DEVELOPMENT, LLC to EH/TRANSEATERN, LLC ("DECLARANT"), shall be deemed the purchase by the DECLARANT of a parcel for the purpose of constructing improvements thereon for resale pursuant to Section 720.307(1)(b) of the Florida Statutes and shall not be deemed a "conveyance to members" requiring or contributing towards a transition of control of the Townhomes of Kendall Pointe Homeowners Association, Inc. from the DECLARANT to the members under Section 720.307(1)(a) of the Florida Statutes or the Articles and By-Laws of the Townhomes of Kendall Pointe Homeowners Association, Inc.

IN WITNESS WHEREOF, KENDALL POINTE LAND DEVELOPMENT, LLC has executed this JOINDER AND CONSENT this 16 day of January, 2006.

WITNESSES:

Zelma M. Dudley
Print Name: Zelma M. Dudley

Eileen Canavan
Print Name: Eileen Canavan

KENDALL POINTE LAND DEVELOPMENT, LLC, a Florida limited liability company

By: Robert J. Falcone Revocable Living Trust Dated 9/1/93
Its: Sole Member and Manager

By: _____
Robert J. Falcone, as Trustee

STATE OF FLORIDA)
) ss:
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me this 16th day of January, 2006, by Robert J. Falcone, as Trustee of Robert J. Falcone Revocable Living Trust Dated 9/1/93, the Sole Member and Manager of Kendall Pointe Land Development, LLC, a Florida limited liability company, on behalf of the Trust and limited liability company. He is personally known to me or has produced as identification.

Eileen Canavan
NOTARY PUBLIC
State of Florida at Large

My Commission Expires:

H:\4954\17310\DJoinderAndConsentKendallPointeLandDevelopmentRC/rxc

EILEEN CANAVAN
MY COMMISSION # DD 469102
EXPIRES: September 7, 2009
Bonded Thru Notary Public Underwriters

EXHIBIT "A" TO DECLARATION OF COVENANTS AND RESTRICTIONS

OF

KENDALL POINTE

LEGAL DESCRIPTION OF SUBJECT PROPERTY

All of KENDALL POINTE TOWNHOMES, according to the Plat thereof, recorded in Plat Book 58, Pages 195-199 of the Public Records of Duval County, Florida.

EXHIBIT "B" TO DECLARATION OF COVENANTS AND RESTRICTIONS
OF KENDALL POINTE

State of Florida

Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of TOWNHOMES OF KENDALL POINTE HOMEOWNERS ASSOCIATION, INC., a Florida corporation, filed on March 30, 2005, as shown by the records of this office.

I further certify the document was electronically received under FAX audit number H05000076262. This certificate is issued in accordance with section 15.16, Florida Statutes, and authenticated by the code noted below

The document number of this corporation is N05000003284.

Authentication Code: 505A00021823-033105-N05000003284-1/1

Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capital, this the
Thirty-first day of March, 2005

Glenda E. Hood
Secretary of State

ARTICLES OF INCORPORATION
OF
TOWNHOMES OF KENDALL POINTE HOMEOWNERS ASSOCIATION, INC.

The undersigned incorporator, for the purpose of forming a corporation not-for-profit pursuant to the laws of the State of Florida, Florida Statutes, Chapter 617, hereby adopts the following Articles of Incorporation:

PREAMBLE

This association is being formed as the association to administer a Declaration of Covenants and Restrictions of Kendall Pointe (the "DECLARATION") and to perform the duties and exercise the powers pursuant to the DECLARATION, as and when the DECLARATION is recorded in the Public Records with these Articles of Incorporation attached as an exhibit. All of the definitions contained in the DECLARATION shall apply to these Articles of Incorporation, and to the Bylaws of the ASSOCIATION.

ARTICLE 1. - NAME AND ADDRESS

The name of the corporation is TOWNHOMES OF KENDALL POINTE HOMEOWNERS ASSOCIATION, INC., hereinafter referred to as the "ASSOCIATION." The initial address of the principal office of the ASSOCIATION and the initial mailing address of the ASSOCIATION is 3300 University Drive, Coral Springs, Florida 33065.

ARTICLE 2. - PURPOSE

The purposes for which the ASSOCIATION is organized are as follows:

2.1 To operate as a corporation not-for-profit pursuant to Chapter 617 of the Florida Statutes.

2.2 To enforce and exercise the duties of the ASSOCIATION as provided in the DECLARATION.

2.3 To promote the health, safety, welfare, comfort, and social and economic benefit of the members of the ASSOCIATION.

ARTICLE 3. - POWERS AND DUTIES

The ASSOCIATION shall have the following powers and duties:

3.1 All of the common law and statutory powers of a corporation not-for-profit under the laws of the State of Florida.

3.2 To administer, enforce, carry out and perform all of the acts, functions, rights and duties provided in, or contemplated by, the DECLARATION, including but not limited to, the following:

3.2.1 To own, purchase, sell, mortgage, encumber, lease, administer, manage, operate, maintain, improve, repair and/or replace real and personal property.

3.2.2 To make and collect ASSESSMENTS against OWNERS to defray the costs, expenses and losses incurred or to be incurred by the ASSOCIATION, and to use the proceeds thereof in the exercise of the ASSOCIATION'S powers and duties.

3.2.3 To enforce the provisions of the DECLARATION, these ARTICLES, and the BYLAWS.

3.2.4 To make, establish and enforce reasonable rules and regulations governing the use of COMMON AREAS, LOTS, UNITS and other property under the jurisdiction of the ASSOCIATION.

3.2.5 To grant and modify easements, and to dedicate property owned by the ASSOCIATION to any public or quasi-public agency, authority or utility company for public, utility, drainage and cable television purposes.

3.2.6 To borrow money for the purposes of carrying out the powers and duties of the ASSOCIATION.

3.2.7 To exercise control over exterior alterations, additions, improvements, or changes in accordance with the terms of the DECLARATION.

3.2.8 To obtain insurance as provided by the DECLARATION.

3.2.9 To employ personnel necessary to perform the obligations, services and duties required of or to be performed by the ASSOCIATION and for proper operation of the properties for which the ASSOCIATION is responsible, or to contract with others for the performance of such obligations, services and/or duties.

3.2.10 To sue and be sued.

3.2.11 The ASSOCIATION shall operate, maintain and manage the surface water or stormwater management system(s) in a manner consistent with any permit issued by the St. Johns River Water Management District, and applicable District rules, and shall assist in the enforcement of the DECLARATION which relate to the surface water or stormwater management system. The ASSOCIATION shall levy and collect ASSESSMENTS against the members of the ASSOCIATION for the costs of maintenance and operation of the surface water or stormwater management system.

ARTICLE 4. - MEMBERS

4.1 The members of the ASSOCIATION shall consist of all of the record owners of LOTS. Membership shall be established as to each LOT upon the recording of the DECLARATION. Upon the transfer of ownership of fee title to, or fee interest in, a LOT, whether by conveyance, devise, judicial decree, foreclosure, or otherwise, and upon the recordation amongst the public records in the county in which the SUBJECT PROPERTY is located of the deed or other instrument establishing the acquisition and designating the LOT affected thereby, the new OWNER designated in such deed or other instrument shall thereupon become a member of the ASSOCIATION, and the membership of the prior OWNER as to the LOT designated shall be terminated, provided, however, that the ASSOCIATION shall not have the responsibility or obligation of recognizing any such change in membership until it has been delivered a true copy of the applicable deed or other instrument, or is otherwise informed of the transfer of ownership of the LOT. Prior to the recording of the DECLARATION, the incorporator shall be the sole member of the ASSOCIATION.

4.2 The share of each member in the funds and assets of the ASSOCIATION, and the COMMON SURPLUS, and any membership in this ASSOCIATION, cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the LOT for which that membership is established.

4.3 On all matters upon which the membership shall be entitled to vote, there shall be only one vote for each LOT. In the event any LOT is owned by more than one person and/or by an entity, the vote for such LOT shall be cast in the manner provided by the BYLAWS. Any person or entity owning more than one LOT shall be entitled to one vote for each LOT owned. In addition to the foregoing, DECLARANT shall have three votes for each vote of any member other than DECLARANT so long as DECLARANT is entitled to appoint the Directors of the ASSOCIATION.

4.4 The BYLAWS shall provide for an annual meeting of the members of the ASSOCIATION and shall make provision for special meetings.

ARTICLE 5. - TERM OF EXISTENCE

The existence of the ASSOCIATION shall commence with the filing of these ARTICLES with the Secretary of State, Tallahassee, Florida. The ASSOCIATION shall have exist in perpetuity.

ARTICLE 6. - INCORPORATOR

The name and street address of the incorporator is: Gary N. Gerson, Esquire, 1645 Palm Beach Lakes Boulevard, Suite 1200, West Palm Beach, Florida 33401.

ARTICLE 7. - DIRECTORS

7.1 The property, business and affairs of the ASSOCIATION shall be managed by a BOARD which shall consist of not less than three (3) directors, and which shall always be an odd number. The BYLAWS may provide for a method of determining the number of directors from time to time. In the absence of a determination as to the number of directors, the BOARD shall consist of three (3) directors. Directors are not required to be members of the ASSOCIATION.

7.2 All of the duties and powers of the ASSOCIATION existing under the DECLARATION, these ARTICLES and the BYLAWS shall be exercised exclusively by the BOARD, its agents, contractors or employees, subject to approval by the members only when specifically required.

7.3 The DECLARANT shall have the right to appoint all of the directors until 90 days after the date on which DECLARANT has conveyed 90% of the LOTS within the SUBJECT PROPERTY, or at such earlier date as DECLARANT, in its sole discretion, may elect to transfer control of the ASSOCIATION, on whichever occurs first. The DECLARANT may waive its right to elect one or more directors by written notice to the ASSOCIATION, and thereafter such directors shall be elected by the members. When the DECLARANT no longer owns any LOT within the SUBJECT PROPERTY, all of the directors shall be elected by the members in the manner provided in the BYLAWS.

7.4 Directors may be removed and vacancies on the BOARD shall be filled in the manner provided by the BYLAWS, however any director appointed by the DECLARANT may only be removed by the DECLARANT, and any vacancy on the BOARD shall be appointed by the DECLARANT if, at the time such vacancy is to be filled, the DECLARANT is entitled to appoint the directors.

ARTICLE 8. - OFFICERS

The officers of the ASSOCIATION shall be a president, vice president, secretary, treasurer and such other officers as the BOARD may from time to time by resolution create. The officers shall serve at the pleasure of the BOARD, and the BYLAWS may provide for the removal from office of officers, for filling vacancies, and for the duties of the officers.

ARTICLE 9.- INDEMNIFICATION

9.1 The ASSOCIATION shall indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the ASSOCIATION) by reason of the fact that he is or was a director, employee, officer or agent of the ASSOCIATION, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with the action, suit or proceeding if he acted in good faith and in a manner he

reasonably believed to be in, or not opposed to, the best interest of the ASSOCIATION; and with respect to any criminal action or proceeding, if he had no reasonable cause to believe his conduct was unlawful; except, that no indemnification shall be made in respect to any claim, issue or matter as to which such person shall have been adjudged to be liable for gross negligence or willful misfeasance or malfeasance in the performance of his duties to the ASSOCIATION unless and only to the extent that the court in which the action or suit was brought shall determine, upon application, that despite the adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, in and of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in, or not opposed to, the best interest of the ASSOCIATION; and with respect to any criminal action or proceeding, that he had no reasonable cause to believe that his conduct was unlawful.

9.2 To the extent that a director, officer, employee or agent of the ASSOCIATION has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Paragraph 1 above, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually and reasonably incurred by him in connection therewith.

9.3 Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the ASSOCIATION in advance of the final disposition of such action, suit or proceeding as authorized by the BOARD in the specific case upon receipt of an undertaking by or on behalf of the directors, officer, employee or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the ASSOCIATION as authorized herein.

9.4 The indemnification provided herein shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the laws of the State of Florida, any BYLAW, agreement, vote of members or otherwise, and as to action taken in an official capacity while holding office, shall continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

9.5 The ASSOCIATION shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the ASSOCIATION, or is or was serving at the request of the ASSOCIATION as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity, as arising out of his status as such, whether or not the ASSOCIATION would have the power to indemnify him against such liability under the provisions of this Article.

ARTICLE 10. - BYLAWS

The first BYLAWS shall be adopted by the BOARD and may be altered, amended or rescinded by the DECLARANT, the Directors and/or members in the manner provided by the BYLAWS.

ARTICLE 11. - AMENDMENTS

Amendments to these ARTICLES shall be proposed and adopted in the following manner:

11.1 A majority of the BOARD shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of the members, which may be the annual or a special meeting.

11.2 Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each member entitled to vote thereon within the time and in the manner provided in the BYLAWS for the giving of notice of a meeting of the members. If the meeting is an annual meeting, the proposed amendment or such summary may be included in the notice of such annual meeting.

11.3 At such meeting, a vote of the members entitled to vote thereon shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving the affirmative vote of 2/3 of the votes of the entire membership of the ASSOCIATION.

11.4 Any number of amendments may be submitted to the members and voted upon by them at any one meeting.

11.5 If all of the directors and all of the members eligible to vote sign a written statement manifesting their intention that an amendment to these ARTICLES be adopted, then the amendment shall thereby be adopted as though the above requirements had been satisfied.

11.6 No amendment shall make any changes in the qualifications for membership nor in the voting rights of members without approval by all of the members and the joinder of all INSTITUTIONAL LENDERS holding mortgages upon the LOTS. No amendment shall be made that is in conflict with the DECLARATION. Prior to the closing of the sale of all LOTS within the SUBJECT PROPERTY, no amendment shall make any changes which would in any way affect any of the rights, privileges, powers or options herein provided in favor of, or reserved to, the DECLARANT, unless the DECLARANT shall join in the execution of the amendment, including, but not limited to, any right of the DECLARANT to appoint directors pursuant to Article VII.

11.7 No amendment to these ARTICLES shall be made which discriminates against any OWNER(S), or affects less than all of the OWNERS within the SUBJECT PROPERTY, without the written approval of all of the OWNERS so discriminated against or affected.

11.8 Upon the approval of an amendment to these ARTICLES, the articles of amendment shall be executed and delivered to the Department of State as provided by law, and a copy certified by the Department of State shall be recorded in the public records of the county in which the SUBJECT PROPERTY is located.

ARTICLE 12. - DISSOLUTION

In the event of dissolution or final liquidation of the ASSOCIATION, the assets, both real and personal, of the ASSOCIATION, shall be dedicated to an appropriate public agency or utility, and the property consisting of the surface water management system shall be conveyed to an appropriate agency of local government, to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the ASSOCIATION. In the event that such dedication or conveyance is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization, to be devoted to purposes as nearly as practicable to the same as those to which they were required to be devoted by the ASSOCIATION.

ARTICLE 13.

INITIAL REGISTERED OFFICE ADDRESS AND NAME OF REGISTERED AGENT

The initial registered office of the ASSOCIATION shall be at 1645 Palm Beach Lakes Boulevard, Suite 1200, West Palm Beach, Florida 33401. The initial registered agent of the ASSOCIATION at that address is Gary N. Gerson, Esquire.

WHEREFORE, the incorporator, and the initial registered agent, have executed these ARTICLES on this ____ day of _____, 2005. By executing these ARTICLES, the undersigned registered agent accepts the appointment as registered agent and states that the undersigned is familiar with, and accepts, the obligations of that position.

_____
Gary N. Gerson, Esquire, as Incorporator and as Registered Agent

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

The foregoing instrument was acknowledged before me this _____ day of _____, 2005, by Gary N. Gerson, Esquire, as Incorporator and as Registered Agent. He is personally known to me.

NOTARY PUBLIC, State of Florida at Large

EXHIBIT "C" TO DECLARATION OF COVENANTS AND RESTRICTIONS

OF KENDALL POINTE

BYLAWS OF

TOWNHOMES OF KENDALL POINTE HOMEOWNERS ASSOCIATION, INC.

1. GENERAL PROVISIONS.

1.1 Identity. These are the BYLAWS of TOWNHOMES OF KENDALL POINTE HOMEOWNERS ASSOCIATION, INC., hereinafter referred to as the "ASSOCIATION," a corporation not-for-profit formed under the laws of the State of Florida. The ASSOCIATION has been organized for the purposes stated in the ARTICLES and shall have all of the powers provided in these BYLAWS, the ARTICLES, the DECLARATION, and any statute or law of the State of Florida, or any other power incident to any of the above powers.

1.2 Principal Office. The principal office of the ASSOCIATION shall be at such place as the BOARD may determine from time to time.

1.3 Fiscal Year. The fiscal year of the ASSOCIATION shall be the calendar year.

1.4 Seal. The seal of the ASSOCIATION shall have inscribed upon it the name of the ASSOCIATION, the year of its incorporation and the words "Corporation Not-for-Profit." The seal may be used by causing it, or a facsimile thereof, to be impressed, affixed or otherwise reproduced upon any instrument or document executed in the name of the ASSOCIATION.

1.5 Inspection of Books and Records. The books and records of the ASSOCIATION shall be open to inspection by all OWNERS or their authorized representatives, and all holders, insurers or guarantors of any first mortgage encumbering a LOT. Such records of the ASSOCIATION shall include current copies of the DECLARATION, ARTICLES and BYLAWS, and any amendments thereto, any contracts entered into by the ASSOCIATION, and the books, records and financial statements of the ASSOCIATION. The ASSOCIATION shall be required to make available to prospective purchasers of LOTS current copies of the DECLARATION, ARTICLES and BYLAWS, and the most recent annual financial statement of the ASSOCIATION. Notwithstanding the foregoing, any inspection of any books or records of the ASSOCIATION will only be permitted upon reasonable notice, during normal business hours or under reasonable circumstances, and must be for a proper purpose which is reasonably related to an interest that the person making the inspection has or may have in the ASSOCIATION.

1.6 Definitions. Unless the context otherwise requires, all terms used in these BYLAWS shall have the same meaning as are attributed to them in the ARTICLES, and the DECLARATION.

2. MEMBERSHIP IN GENERAL.

2.1 Qualification. Pursuant to the ARTICLES, all of the record owners of LOTS shall be members of the ASSOCIATION. Membership for each LOT shall be established upon the recording of the DECLARATION. Prior to the recording of the DECLARATION, the incorporator shall be the sole member of the ASSOCIATION, but its membership shall terminate upon the recording of the DECLARATION, unless it owns any LOT(S).

2.2 Changes in Membership. The transfer of the ownership of any LOT, either voluntarily or by operation of law, shall automatically terminate the membership of the prior owner, and the transferee or new owner shall automatically become a member of the ASSOCIATION. It shall be the responsibility of any such transferor and transferee of a LOT to notify the ASSOCIATION of any change in the ownership of any LOT, and the corresponding change in any membership, by delivering to the ASSOCIATION a copy of the deed or other instrument of conveyance which establishes a transfer of ownership. In the absence of such notification, the ASSOCIATION shall not be obligated to recognize any change in membership or ownership of a LOT for purposes of notice, voting, ASSESSMENTS, or for any other purpose.

2.3 Member Register. The secretary of the ASSOCIATION shall maintain a register in the office of the ASSOCIATION showing the names and addresses of the members of the ASSOCIATION. It shall be the obligation of each member of the ASSOCIATION to advise the secretary of any change of address of the member, or of the change of ownership of the member's LOT, as set forth above. Any member who mortgages his LOT shall notify the ASSOCIATION of the name and address of his mortgagee. Any member who satisfies the mortgage encumbering his LOT shall also notify the ASSOCIATION thereof, and shall file a copy of the satisfaction of mortgage with the ASSOCIATION. The names and addresses of any such mortgagee shall also be maintained in the member register.

3. MEMBERSHIP VOTING.

3.1 Voting Rights. The voting rights of the members and of DECLARANT shall be as provided in the ARTICLES.

3.2 Majority Vote and Quorum Requirements. The acts approved by a majority of the votes present in person or by proxy at a meeting at which a quorum is present shall be binding upon all members and OWNERS for all purposes, except where otherwise provided by law, in the DECLARATION, in the ARTICLES, or in these BYLAWS. Unless otherwise so provided, at any regular or special meeting, the presence in person or by proxy of persons entitled to cast the votes for one-third of the LOTS shall constitute a quorum.

3.3 Determination as to Voting Rights.

3.3.1 In the event any LOT is owned by one person, his right to cast the vote for the LOT shall be established by the record title to his LOT.

3.3.2 In the event any LOT is owned by more than one person or by an entity, the vote for the LOT may be cast at any meeting by any co-owner of the LOT provided, however, that in the event a dispute arises between the co-owners as to how the vote for the LOT shall be cast, or in the event the co-owners are unable to concur in their decision upon any subject requiring a vote, they shall lose their right to cast the vote for the LOT on the matter being voted upon at that meeting, but their membership shall be counted for purposes of determining the existence of a quorum. For purposes of this paragraph, the principals or partners of any entity (other than a corporation) owning a LOT shall be deemed co-owners of the LOT, and the directors and officers of a corporation owning a LOT shall be deemed co-owners of the LOT.

3.3.3 Proxies. Every member entitled to vote at a meeting of the members, or to express consent or dissent without a meeting, may authorize another person or persons to act on the member's behalf by a proxy signed by such member or his attorney-in-fact. Any proxy shall be delivered to the secretary of the meeting at or prior to the time designated in the order of business for delivering proxies. Members may not vote by general proxy, but may vote by limited proxy. Limited proxies and general proxies may be used to establish a quorum. Limited proxies may also be used for votes taken to amend the ARTICLES or BYLAWS or for any matter that requires or permits a vote of the members. Any proxy shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. In no event shall any proxy be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the member executing it. Every proxy shall specifically set forth the name of the person voting by proxy, and the name of the person authorized to vote the proxy for him. Every proxy shall contain the date, time, and place of the meeting for which the proxy is given, and if a limited proxy, shall set forth those items which the proxy holder may vote, and the manner in which the vote is to be cast.

4. MEMBERSHIP MEETINGS.

4.1 Who May Attend. In the event any LOT is owned by more than one person, all co-owners of the LOT may attend any meeting of the members. In the event any LOT is owned by a corporation, any director or officer of the corporation may attend any meeting of the members. However, the vote for any LOT shall be cast in accordance with the provisions of Paragraph 3 above. INSTITUTIONAL LENDERS have the right to attend all members meetings.

4.2 Place. All meetings of the members shall be held at the principal office of the ASSOCIATION or at such other place and at such time as shall be designated by the BOARD and stated in the notice of meeting.

4.3 Notices. Written notice stating the place, day and hour of any meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given by first-class mail or personal delivery to each member entitled to vote at such meeting not less than 10 nor more than 60 days before the date of the meeting, either personally or by first-class mail, by or at the direction of the president, the secretary or the officer or persons calling the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at his address as it appears in the records of the ASSOCIATION, with postage thereon pre-paid. For the purpose of determining members entitled to notice of, or to vote at, any meeting of the members of the ASSOCIATION, or in order to make a determination of the members for any other purpose, the BOARD shall be entitled to rely upon the member register as same exists ten days prior to the giving of the notice of any meeting, and the BOARD shall not be required to take into account any changes in membership occurring after that date but may, in their sole and absolute discretion, do so. Notwithstanding the foregoing, if a LOT is owned by more than one person or by an entity, only one notice shall be required to be given with respect to the LOT, which may be given to any co-owner as defined in Paragraph 3.3.2 of these BYLAWS. Notice to any member or co-owner shall be sent to the LOT of such member or co-owner, unless the LOT OWNER(S) of the LOT otherwise request.

4.4 Waiver of Notice. Whenever any notice is required to be given to any member under the provisions of the ARTICLES or these BYLAWS, or as otherwise provided by law, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice. Attendance of a member at a meeting shall constitute a waiver of notice of such meeting, except when the member objects at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened.

4.5 Annual Meeting. The annual meeting for the purpose of electing directors and transacting any other business shall be held once each year at a time and place to be determined by the BOARD and as is contained in the notice of such meeting. However, so long as DECLARANT is entitled to appoint a majority of the directors of the Association, no annual meetings will be required.

4.6 Special Meetings. Special meetings of the members may be called at any time by any director, the president, or at the request, in writing, by not less than 25% of the members, or as otherwise provided by law. Such request shall state the purpose of the proposed meeting. Business transacted at all special meetings shall be confined to the subjects stated in the notice of meeting. Notice of any special meeting shall be given by the secretary, or other officer of the ASSOCIATION, to all of the members within thirty (30) days after same is duly called, and the meeting shall be held within forty-five (45) days after same is duly called.

4.7 Adjournments. Any meeting may be adjourned or continued by a majority vote of the members present in person or by proxy and entitled to vote, or if no member entitled to vote is present, then any officer of the ASSOCIATION may adjourn the meeting from time to time. If any meeting is adjourned or continued to another time or place, it shall not be necessary to give any notice of the adjourned meeting, if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken, and any business may be transacted at the adjourned meeting that might have been

transacted at the original meeting. If the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken, notice of the adjourned meeting may be given to members not present at the original meeting, without giving notice to the members which were present at such meeting.

4.8 Organization. At each meeting of the members, the president, the vice president, or any person chosen by a majority of the members present, in that order, shall act as chairman of the meeting. The secretary, or in his absence or inability to act, any person appointed by the chairman of the meeting, shall act as secretary of the meeting.

4.9 Order of Business. The order of business at the annual meetings of the members shall be:

4.9.1 Determination of chairman of the meeting;

4.9.2 Calling of the roll and certifying of proxies;

4.9.3 Proof of notice of meeting or waiver of notice;

4.9.4 Reading and disposal of any unapproved minutes;

4.9.5 Reports of directors, officers or committees;

4.9.6 Nomination and election of inspectors of election;

4.9.7 Determination of number of directors;

4.9.8 Election of directors;

4.9.9 Unfinished business;

4.9.10 New business; and

4.9.11 Adjournment.

4.10 Minutes. The minutes of all meetings of the members shall be kept in a book available for inspection by the members or their authorized representatives, and the directors, upon reasonable notice, during reasonable times, for a proper purpose. The ASSOCIATION shall retain these minutes for a period of not less than seven years.

4.11 Actions Without a Meeting. Any action required or permitted to be taken at any annual or special meeting of the members of the ASSOCIATION, may be taken without a meeting, without prior notice, and without a vote if a consent in writing, setting forth the action so taken, shall be signed by the members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all members entitled to vote thereon were present and voted. Within ten days after obtaining such authorization by written consent, notice shall be given to those members who have not consented in writing. The notice shall fairly summarize the material features of the authorized action. If a LOT is owned by more than one person or by a corporation, the consent for such LOT need only be signed by one person who would be entitled to cast the vote for the LOT as a co-owner pursuant to Paragraph 3.3.2 of these BYLAWS.

5. DIRECTORS.

5.1 Membership.

5.1.1 The affairs of the ASSOCIATION shall be managed by a BOARD of not less than three (3) nor more than nine (9) directors. So long as the DECLARANT is entitled to appoint any director pursuant to the ARTICLES, the number of directors will be determined, and may be changed from time to time, by the DECLARANT by written notice to the BOARD. After the DECLARANT is no longer entitled to appoint any director, the number of directors may be changed at any meeting where the members are to elect any directors (i) by the then existing BOARD, if prior to such meeting of the members the BOARD votes to change the number of directors and such change is indicated in the notice of the meeting sent to the members, or (ii) by the members at the meeting prior to the election of directors. If the number of directors on the BOARD is not changed, then the number of directors shall be the same as the number on the BOARD prior to such meeting (plus any unfilled vacancies created by the death, resignation or removal of a director). In any event there shall always be an odd number of directors.

5.2 Election of Directors by Members. Election of directors to be elected by the members of the ASSOCIATION shall be conducted in the following manner:

5.2.1 Within 60 days after the members other than the DECLARANT are entitled to elect any directors, as provided in the ARTICLES, or within 60 days after the DECLARANT notifies the ASSOCIATION that it waives its right to appoint one or more directors, the ASSOCIATION shall call, and give not less than 30 days nor more than 45 days notice of, a special meeting of the members to elect any directors the members are then entitled to elect, or to replace the appropriate number of directors previously appointed by the DECLARANT. Such special meeting may be called and the notice given by any member if the ASSOCIATION fails to do so. At such special meeting the members shall be required to elect any directors which they are entitled to elect, and if they fail to do so any directors appointed by DECLARANT which would have been replaced by any directors elected by the members may resign without further liability or obligation to the ASSOCIATION. In the event such a special meeting is called and held, at the meeting the members may elect not to hold the next annual meeting of the members if such next annual meeting would be less than 4 months after the date of the special meeting, and upon such election the next annual meeting of the members shall not be held.

5.2.2 Except as provided above, the members shall elect directors at the annual members' meetings.

5.2.3 Prior to any special or annual meeting at which directors are to be elected by the members, the existing BOARD may nominate a committee, which committee shall nominate one person for each director to be elected by the members, on the basis that the number of directors to serve on the BOARD will not be altered by the members at the members meeting. Nominations for additional directorships created at the meeting shall be made from the floor, and other nominations may be made from the floor.

5.2.4 The election of directors by the members shall be by ballot that the member personally casts (unless dispensed with by unanimous consent) and by a plurality of the votes cast, each member voting being entitled to cast his votes for each of as many nominees as there are vacancies to be filled. There shall be no cumulative voting.

5.3 Term of Office. All directors elected by the members shall hold office until the next annual meeting of the members and until their successors are duly elected, or until such director's death, resignation or removal, as hereinafter provided or as otherwise provided by statute or by the ARTICLES.

5.4 Organizational Meeting. The newly elected BOARD shall meet for the purposes of organization, the election of officers and the transaction of other business immediately after their election or within ten (10) days of same 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.

5.5 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. During the period when DECLARANT appoints a majority of the Directors, no regular meetings of the BOARD will be required.

5.6 Special Meetings. Special meetings of the BOARD may be called by any director, or by the president, at any time.

5.7 Notice of Meetings. Notice of each meeting of the BOARD shall be given by the secretary, or by any other officer or director, which notice shall state the day, place and hour of the meeting. Notice of such meeting shall be delivered to each director either personally or by telephone or telegraph, at least 48 hours before the time at which such meeting is to be held, or by first class mail, postage prepaid, addressed to such director at his residence, or usual place of business, at least three days before the day on which such meeting is to be held. Notice of a meeting of the BOARD need not be given to any director who signs a waiver of notice either before or after the meeting. Notice of any meeting of the BOARD shall not be required to be given to the members or posted unless otherwise required by law. Notice of any meeting in which ASSESSMENTS are to be established shall specifically contain a statement that ASSESSMENTS shall be considered and a statement of the nature of such ASSESSMENTS. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting and a waiver of any and all objections to the place of the meeting, the time of the meeting, or the manner in which it has been called or convened, except when a director states, at the beginning of the meeting, an objection to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the BOARD need be specified in any notice or waiver of notice of such meeting.

5.8 Quorum and Manner of Acting. A majority of the directors determined in the manner provided in these BYLAWS shall constitute a quorum for the transaction of any business at a meeting of the BOARD. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the BOARD, unless the act of a greater number of directors is required by statute, the DECLARATION, the ARTICLES, or by these BYLAWS. A director may join by written concurrence in any action taken at a meeting of the BOARD but such concurrence may not be used for the purposes of creating a quorum.

5.9 Adjourned Meetings. A majority of the directors present at a meeting, whether or not a quorum exists, may adjourn any meeting of the BOARD to another place and time. Notice of any such adjourned meeting shall be given to the directors who are not present at the time of the adjournment, and, unless the time and place of the adjourned meeting are announced at the time of the adjournment, to the other directors. At any adjourned meeting, any business that might have been transacted at the meeting as originally called may be transacted without further notice.

5.10 Presiding Officer. The presiding officer of the BOARD meetings shall be the chairman of the BOARD if such an officer is elected; and if none, the president of the ASSOCIATION shall preside. In the absence of the presiding officer, the directors shall designate one of their members to preside.

5.11 Order of Business. The order of business at a BOARD meeting shall be:

5.11.1 Calling of roll;

5.11.2 Proof of due notice of meeting;

5.11.3 Reading and disposal of any unapproved minutes;

5.11.4 Reports of officers and committees;

5.11.5 Election of officers;

5.11.6 Unfinished business;

5.11.7 New business; and

5.11.8 Adjournment.

5.12 Minutes of Meetings. The minutes of all meetings of the BOARD shall be kept in a book available for inspection by the members of the ASSOCIATION, or their authorized representatives, and the directors, upon reasonable notice, during reasonable times, for a proper purpose. The ASSOCIATION shall retain these minutes for a period of not less than seven years.

5.13 Committees. The BOARD may, by resolution duly adopted, appoint committees. Any committee shall have and may exercise such powers, duties and functions as may be determined by the BOARD from time to time, which may include any powers which may be exercised by the BOARD and which are not prohibited by law from being exercised by a committee.

5.14 Resignation. Any director may resign at any time by giving written notice of his resignation to another director or officer. Any such resignation shall take effect at the time specified therein or, if the time when such resignation is to become effective is not specified therein, immediately upon its receipt, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

5.15 Removal of Directors. Directors may be removed as follows:

5.15.1 Any director other than a director appointed by the DECLARANT may be removed by majority vote of the remaining directors, if such director has been absent for the last three consecutive BOARD meetings, and/or adjournments and continuances of such meetings.

5.15.2 Any director other than a director appointed by the DECLARANT may be removed with or without cause by the vote of a majority of the members of the ASSOCIATION at a special meeting of the members called by not less than ten percent of the members of the ASSOCIATION expressly for that purpose. The vacancy on the BOARD caused by any such removal may be filled by the members at such meeting or, if the members shall fail to fill such vacancy, by the BOARD, as in the case of any other vacancy on the BOARD.

5.16 Vacancies.

5.16.1 Vacancies in the BOARD may be filled by a majority vote of the directors then in office, though less than a quorum, or by a sole remaining director, and a director so chosen shall hold office until the next annual election and until his successor is duly elected, unless sooner displaced. If there are no directors, then a special election of the members shall be called to elect the directors. Notwithstanding anything contained herein to the contrary, the DECLARANT at all times shall have the right to appoint the maximum number of directors permitted by the ARTICLES, and any vacancies on the BOARD may be filled by the DECLARANT to the extent that the number of directors then serving on the BOARD which were appointed by the DECLARANT is less than the number of directors the DECLARANT is then entitled to appoint.

5.16.2 In the event the ASSOCIATION fails to fill vacancies on the BOARD sufficient to constitute a quorum in accordance with these BYLAWS, any LOT OWNER may apply to the Circuit Court of the County in which the SUBJECT PROPERTY is located for the appointment of a receiver to manage the affairs of the ASSOCIATION. At least thirty (30) days prior to applying to the Circuit Court, the LOT OWNER shall mail to the ASSOCIATION a notice describing the intended action giving the ASSOCIATION the opportunity to fill the vacancies. If during such time the ASSOCIATION fails to fill the vacancies, the LOT OWNER may proceed with the petition. If a receiver is appointed, the ASSOCIATION shall be responsible for the salary of the receiver, court costs, and attorneys' fees. The receiver shall have all powers and duties of a duly constituted member of the BOARD, and shall serve until the ASSOCIATION fills vacancies on the BOARD sufficient to constitute a quorum.

5.17 Directors Appointed by the DECLARANT. Notwithstanding anything contained herein to the contrary, the DECLARANT shall have the right to appoint the maximum number of directors in accordance with the privileges granted to the DECLARANT pursuant to the ARTICLES. All directors appointed by the DECLARANT shall serve at the pleasure of the DECLARANT, and the DECLARANT shall have the absolute right, at any time, and in its sole discretion, to remove any director appointed by it, and to replace such director with another person to serve on the BOARD. Replacement of any director appointed by the DECLARANT shall be made by written instrument delivered to any officer or any other director, which instrument shall specify the name of the person designated as successor director. The removal of any director and the designation of his successor by the DECLARANT shall become effective immediately upon delivery of such written instrument by the DECLARANT.

5.18 Compensation. The Directors shall not be entitled to any compensation for serving as Directors unless the members approve such compensation, provided however, the ASSOCIATION may reimburse any Director for expenses incurred on behalf of the ASSOCIATION without approval of the members.

5.19 Powers and Duties. The directors shall have the right to exercise all of the powers and duties of the ASSOCIATION, express or implied, existing under these BYLAWS, the ARTICLES, the DECLARATION, or as otherwise provided by statute or law.

6. OFFICERS.

6.1 Members and Qualifications. The officers of the ASSOCIATION shall include a president, a vice president, a treasurer and a secretary, all of whom shall be elected by the directors and may be preemptively removed from office with or without cause by the directors. Any person may hold two or more offices except that the president shall not also be the secretary. The BOARD may, from time to time, elect such other officers and designate their powers and duties as the BOARD shall find to be appropriate to manage the affairs of the ASSOCIATION from time to time. Each officer shall hold office until the meeting of the BOARD following the next annual meeting of the members, or until his successor shall have been duly elected and shall have qualified, or until his death, or until he shall have resigned, or until he shall have been removed, as provided in these BYLAWS.

6.2 Resignations. Any officer may resign at any time by giving written notice of his resignation to any director or officer. Any such resignation shall take effect at the time specified therein, or if there is no time specified therein, immediately upon its receipt; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make such resignation effective.

6.3 Vacancies. A vacancy in any office, whether arising from death, resignation, removal or any other cause may be filled for the unexpired portion of the term of the office which shall be vacant in the manner prescribed in these BYLAWS for the regular election or appointment of such office.

6.4 The President. The president shall be the chief executive officer of the ASSOCIATION. He shall have all of the powers and duties which are usually vested in the office of president of an association or corporation including, but not limited to, the power to appoint committees from among the members from time to time, as he may in his discretion deem appropriate to assist in the conduct of the affairs of the ASSOCIATION.

6.5 The Vice President. The vice president shall, in the absence or disability of the president, exercise the powers and perform the duties of the president. He shall also assist the president generally and exercise such other powers and perform such other duties as may be prescribed by the directors.

6.6 The Secretary. The secretary shall prepare and keep the minutes of all proceedings of the directors and the members. He shall attend to the giving and serving of all notices to the members and directors and other notices required by law. He shall have custody of the seal of the ASSOCIATION and affix the same to instruments requiring a seal when duly executed. He shall keep the records of the ASSOCIATION, except those of the treasurer, and shall perform all other duties incident to the office of secretary of an association, and as may be required by the directors or the president.

6.7 The Treasurer. The treasurer shall have custody of all property of the ASSOCIATION, including funds, securities, and evidences of indebtedness. He shall keep books of account for the ASSOCIATION in accordance with good accounting practices, which, together with substantiating papers, shall be made available to the BOARD for examination at reasonable times. He shall submit a Treasurer's Report to the BOARD at reasonable intervals and shall perform all other duties incident to the office of treasurer. He shall collect all ASSESSMENTS and shall report to the BOARD the status of collections as requested.

6.8 Compensation. The officers shall not be entitled to compensation unless the BOARD specifically votes to compensate them. However, neither this provision, nor the provision that directors will not be compensated unless otherwise determined by the members, shall preclude the BOARD from employing a director or an officer as an employee of the ASSOCIATION and compensating such employee, nor shall they preclude the ASSOCIATION from contracting with a director for the management of property subject to the jurisdiction of the ASSOCIATION, or for the provision of services to the ASSOCIATION, and in either such event to pay such director a reasonable fee for such management or provision of services.

7. FINANCES AND ASSESSMENTS.

7.1 ASSESSMENT ROLL. The ASSOCIATION shall maintain an ASSESSMENT roll for each LOT, designating the name and current mailing address of the OWNER, the amount of each ASSESSMENT against such OWNER, the dates and amounts in which the ASSESSMENTS come due, the amounts paid upon the account of the OWNER, and the balance due.

7.2 Depositories. The funds of the ASSOCIATION shall be deposited in such banks and depositories as may be determined and approved by appropriate resolutions of the BOARD from time to time. Funds shall be withdrawn only upon checks and demands for money signed by such officers, directors or other persons as may be designated by the BOARD. Fidelity bonds as required by the DECLARATION shall be required of all signatories on any account of the ASSOCIATION.

7.3 Depositing of Payments. All sums collected by the ASSOCIATION from ASSESSMENTS may be deposited in a single fund or divided into more than one fund, as determined by the BOARD.

7.4 Accounting Records and Reports. The ASSOCIATION shall maintain accounting records according to good accounting practices. The records shall be open to inspection by OWNERS and INSTITUTIONAL LENDERS or their authorized representatives, at reasonable times. The records shall include, but not be limited to, (a) a record of all receipts and expenditures, and (b) the ASSESSMENT roll of the members referred to above. The BOARD may, and upon the vote of a majority of the members shall,

conduct a review of the accounts of the ASSOCIATION by a certified public accountant, and if such a review is made, a copy of the report shall be furnished to each member, or their authorized representative, within fifteen days after same is completed.

7.5 Reserves. The budget of the ASSOCIATION shall provide for a reserve fund for the periodic maintenance, repair and replacement of improvements to the COMMON AREAS and those other portions of the SUBJECT PROPERTY which the ASSOCIATION is obligated to maintain.

8. PARLIAMENTARY RULES.

8.1 Roberts' Rules of Order (latest edition) shall govern the conduct of the ASSOCIATION meetings when not in conflict with any DECLARATION, the ARTICLES or these BYLAWS.

9. AMENDMENTS.

Except as otherwise provided, these BYLAWS may be amended in the following manner:

9.1 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered.

9.2 Initiation. A resolution to amend these BYLAWS may be proposed either by any director, or by or at the direction of 25% percent or more of the members of the ASSOCIATION.

9.3 Adoption of Amendments.

9.3.1 A resolution for the adoption of the proposed amendment shall be adopted by not less than a majority of the votes of the entire membership of the ASSOCIATION.

9.3.2 Notwithstanding the foregoing, these BYLAWS may be amended solely by the BOARD, upon the unanimous vote of the directors and without the vote or approval of the members, if the purpose of such amendment is solely to conform these BYLAWS to the provisions of any applicable statute of the State of Florida, including any amendment to any statute hereafter adopted.

9.3.3 Notwithstanding anything contained herein to the contrary, so long as the DECLARANT is entitled to appoint a majority of the directors, the DECLARANT shall have the right to unilaterally amend these BYLAWS without the joinder or approval of the BOARD or any member, and so long as the DECLARANT owns any LOT, no amendment to these BYLAWS shall be effective without the written approval of the DECLARANT.

9.4 No amendment shall make any changes in the qualification for membership nor in the voting rights or property rights of members without approval by all of the members and the joinder of all record owners of mortgages upon the LOTS. No amendment shall be made that is in conflict with the DECLARATION or the ARTICLES. Prior to the closing of the sale of all LOTS, no amendment shall make any changes which would in any way affect any of the rights, privileges, powers or options herein provided in favor of, or reserved to, the DECLARANT, unless the DECLARANT shall join in the execution of the amendment, including, but not limited to, any right of the DECLARANT to appoint directors.

9.5 No amendment to these BYLAWS shall be made which discriminates against any OWNER(S), or affects less than all of the OWNERS without the written approval of all of the OWNERS so discriminated against or affected.

9.6 Execution and Recording. No modification of, or amendment to, the BYLAWS shall be valid until recorded in the public records of the county in which the SUBJECT PROPERTY is located.

10. MISCELLANEOUS.

10.1 Tenses and Genders. The use of any gender or of any tense in these BYLAWS shall refer to all genders or to all tenses, wherever the context so requires.

10.2 Partial Invalidity. Should any of the provisions hereof be void or become unenforceable at law or in equity, the remaining provisions shall, nevertheless, be and remain in full force and effect.

10.3 Conflicts. In the event of any conflict, the DECLARATION, the ARTICLES, and these BYLAWS, shall govern, in that order.

10.4 Captions. Captions are inserted herein only as a matter of convenience and for reference, and in no way are intended to or shall define, limit or describe the scope of these BYLAWS or the intent of any provisions hereof.

10.5 Waiver of Objections. The failure of the BOARD or any officers of the ASSOCIATION to comply with any terms and provisions of the DECLARATION, the ARTICLES, or these BYLAWS which relate to time limitations shall not, in and of itself, invalidate the act done or performed. Any such failure shall be waived if it is not objected to by a member of the ASSOCIATION within ten (10) days after the member is notified, or becomes aware, of the failure. Furthermore, if such failure occurs at a general or special meeting, the failure shall be waived as to all members who received notice of the meeting or appeared and failed to object to such failure at the meeting.