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# DECLARATION OF COVENANTS,

# CONDITIONS AND RESTRICTIONS

# FOR

# PALM RIVER TOWNHOMES

This Document prepared by
and after recording return to:

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# DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PALM RIVER TOWNHOMES

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PALM RIVER TOWNHOMES is made this 25th day of October, 2005, by Palm River, LLC, a Florida limited liability company ("Declarant"), whose address is 2502 N. Rocky Point Drive, Suite 1050, Tampa, Florida 33607.

## RECITALS:

A. Declarant owns the real property described in the plat for Palm River Townhomes Phase 1, as recorded in Plat Book 106, Page 130, of the Public Records of Hillsborough County, Florida and which is also more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Property").

B. The Property is a residential community known as "Palm River Townhomes."

C. Declarant desires to preserve and enhance the values and quality of life in the Property and the health, safety and welfare of the residents thereof, and to provide for the maintenance of certain areas and improvements for the benefit of the Property.

D. Declarant has incorporated a non-profit corporation to which will be conveyed title to certain property, and to which will be delegated the powers of and responsibility for maintaining and administering certain property and improvements, administering and enforcing this Declaration, and collecting and disbursing the monies derived from the assessments hereafter levied.

## DECLARATIONS:

NOW, THEREFORE, Declarant declares that the Property is and shall be owned, improved, transferred and occupied subject to this Declaration.

## ARTICLE I

## DEFINITIONS

Section 1. Definitions. When used in this Declaration, the following words shall have the following meanings:

(a) "Additional Property" shall mean and refer to those lands, together with any improvements thereon, which are made subject to this Declaration by annexation pursuant to Article II.

(b) "Architectural Review Board" or ARB shall refer to any body/board established pursuant to the provisions of, and for the purposes set forth in, Article VII of this Declaration.

(c) "Area(s)" of Common Responsibility" shall mean and refer to any land or improvement located in or near the Property which is not intended to be owned by the Association but which is intended to be improved, maintained or operated by the Association in the manner and to the extent determined from time to time by the Board. Areas of Common Responsibility may be designated

by this Declaration, any Supplemental Declaration, a contract entered into by the Association, or by a decision of the Board. The Areas of Common Responsibility hereby include, without limitation, the following:

(i) Rights of Way and Entrance Area. Subject to limitations imposed by governmental authority, the Association shall maintain, repair and replace to the extent determined by the Board the signs, lighting fixtures, electrical equipment, drainage improvements (in accordance with the Surface Water Management System permit issued by the District), irrigation lines and equipment, landscape materials and features, and other improvements from time to time located within the unpaved rights-of-way adjacent to the Property and within any entry area;

(ii) Street Lighting. The Association may arrange for and assess the Owners for the fixture rental, electrical usage and other costs of street lighting for the Property and any Area of Common Responsibility;

(iii) Drainage Improvements within Easements. The Association shall maintain, repair and replace all drainage improvements within the Property, including without limitation within all platted drainage easements, all in accordance with the Surface Water Management System permit issued by the District;

(iv) Easements. The Association shall maintain, repair and replace any walls, signs, lighting fixtures, electrical equipment, drainage improvements (in accordance with the Surface Water Management System permit issued by the District), irrigation lines and equipment, landscape materials and features, and other improvements from time to time located within all wall and landscape easements created in favor of the Association on any plat of the Property. The preceding sentence is subject to the limitations that the Owner of each Lot encumbered by a wall easement shall maintain all landscaping lying between the wall and that Owner's Dwelling, and said Owner shall maintain the paint or other surface finish, if any, on the vertical surface of the wall which faces his or her Dwelling;

(v) Exterior Building Surfaces. The Association shall maintain, repair and replace, as more particularly set forth herein, all exterior walls, roofs, chimney or other exterior roof structures, but excluding all doors and windows;

(vi) Landscaping. The Association shall maintain all landscaping installed by the Declarant as may be improved from time to time by the Association in its sole and absolute discretion.

(d) "Articles" shall mean and refer to the Articles of Incorporation of the Association. A copy of the initial Articles are attached as Exhibit "B" to this Declaration. The Articles may be amended as provided therein and it shall not be necessary to amend this Declaration in order to amend the Articles.

(e) "Association" shall mean and refer to the Palm River Townhomes Homeowners Association, Inc., a Florida not for profit corporation, and its successors and assigns.

(f) "Board" or "Board of Directors" shall mean and refer to the Board of Directors of the Association.

(g) "Builder" shall mean KB Home of Florida, who is or will be constructing the Initial Improvements.

(h) "Building" shall mean and refer to a building in Palm River Townhomes containing two or more attached Dwelling Units sharing party walls and a common roof.

(i) "Bylaws" shall mean and refer to the Bylaws of the Association. A copy of the initial Bylaws are attached as Exhibit "C" to this Declaration. The Bylaws may be amended as provided therein and it shall not be necessary to amend this Declaration in order to amend the Bylaws.

(j) "Common Expense" shall mean and refer to the actual and estimated expense of operating the Association and meeting the costs to be incurred by the Association in performing its duties and in exercising its prerogatives, including without limitation costs incurred for operation, maintenance, insurance and improvement of the Common Property and Areas of Common Responsibility, and for any reserves from time to time established by the Board.

(k) "Common Property" shall mean and refer to the real and personal property from time to time owned or intended to be owned by the Association and devoted to the use and enjoyment of all Members of the Association, all at Common Expense. Without limiting the generality of the foregoing, Tracts "A" and "C" as depicted on the plat of the Property shall be Common Property. Common Property shall include, but not be limited to, easement areas which are held by the Association as grantee. No commitment is made that any Additional Property will contain Common Property.

(l) "Common Structural Elements" those certain elements, features or parts of each Building that are structural elements of the Building or of more than one Dwelling Unit, as more particularly defined herein.

(m) "Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing throughout the Property. Such standard may be more specifically determined by the Board and/or the ARB.

(n) "Conservation Easement Area(s)" shall mean and refer to all of such areas so designated upon any recorded subdivision plat or plats of the Property.

(o) "Declarant" shall mean and refer to Palm River, LLC, a Florida limited liability company, its successors and assigns. No successor or assignee of Declarant shall have any rights or obligations of Declarant hereunder unless such rights and obligations are specifically set forth in the instrument of succession or assignment, or unless such rights pass by operation of law.

(p) "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for Palm River Townhomes as amended or supplemented.

(q) "District" shall mean and refer to the applicable State of Florida Water Management District, an agency created pursuant to Chapter 373, Florida Statutes or any successor governmental agency.

(r) "Dwelling Unit" shall mean and refer to a residential townhouse unit located on a Lot to be used as a residence for one family.

(s) "Exterior Building Surfaces" shall mean and refer to all exterior walls, roofs, chimney or other exterior roof structures, but excluding all doors and windows.

(t) "Improvements" means a Dwelling Unit and any and all horizontal or vertical alterations or improvements installed or constructed on a Lot, including without limitation approved landscaping.

(u) "Initial Improvement" means the initial, original construction of Dwelling Units and related Improvements and the initial landscaping upon the Lots constructed or installed by the Declarant or Builder.

(v) "Local Government" shall mean and refer to the City of Tampa and Hillsborough County, Florida.

(w) "Lot" shall mean and refer to any numbered lot shown upon any recorded plat of the Property, intended for the construction of a Dwelling Unit and located within the Property, including any improvements from time to time constructed, erected, placed, installed or located thereon.

(x) "Member" shall mean and refer to each Member of the Association as provided in Article III, Section 2.

(y) "Owner" shall mean and refer to the record holder, whether one or more persons or entities, of fee simple title to each Lot and Dwelling Unit in the Property, but, notwithstanding any applicable theory of the law of mortgages, Owner shall not mean or refer to any mortgagee unless and until such mortgagee has acquired title to a Lot pursuant to foreclosure proceeding or a conveyance in lieu of foreclosure. All owners of a single Lot shall be treated for all purposes as a single Owner, irrespective of whether such ownership is joint, in common, or tenancy by the entirety.

(z) "Party Wall" shall mean and refer to the entire wall, from front to rear, all or a portion of which is used for support of each adjoining structure, situate or intended to be situate on the boundary line between adjoining Lots.

(aa) "Permit" shall mean the SWFWMD permits, if any, issued by the District.

(bb) "Property" shall mean and refer to the real property described in the plat for Palm River Townhomes Phase 1 as recorded in the Public Records of Hillsborough County, which is also more particularly described on **Exhibit "A"** to this Declaration, together with any Additional Property hereafter annexed to this Declaration pursuant to Article II.

(cc) "Supplemental Declaration" shall mean and refer to any instrument which extends the effect of this Declaration to Additional Property pursuant to Article II.

(dd) "Surface Water Management System" means the overall system designed, constructed and implemented upon the Property to control discharges caused by rainfall events, which system is intended to collect, convey, store, absorb, inhibit, treat, use or reuse surface water in order to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution, and to control the quality and quantity of discharges from the system, all as permitted by the District pursuant to Chapter 40C-4, 40C-40, 40C-42, Florida Administrative Code.

Section 2. Interpretation. The provisions of this Declaration and the Articles, Bylaws and any rules and regulations of the Association shall be liberally construed so as to effectuate the purposes herein expressed with respect to the efficient operation of the Association and the Property, the preservation of the value of the Lots and the protection of Declarant's rights, benefits and privileges herein contemplated. Notwithstanding that this Declaration was prepared, initially, at the direction of the Declarant, and notwithstanding any rule of construction to the contrary, this Declaration shall not be more strictly construed against the Declarant and/or any of its affiliates than against any other person or entity.

## ARTICLE II

## PROPERTY SUBJECT TO THIS DECLARATION

Section 1. Property. The Property is and shall be improved, held, transferred and occupied subject to this Declaration.

Section 2. Additional Property. Declarant shall have the right but not the obligation to bring within the scope of this Declaration, as Additional Property, additional lands lying in the vicinity of the Property, at any time and from time to time within twenty (20) years from the date on which this Declaration is recorded. Except as provided in Article XIII, annexation may be accomplished by Declarant without the consent of the Association, the Owners, any mortgagee or other lien holder, or anyone else.

Section 3. Method of Annexation. Additions authorized under Article II shall be made, if at all, by recording a Supplemental Declaration extending this Declaration to Additional Property. The Supplemental Declaration shall describe the real property to be annexed and shall state that it is being made pursuant to the terms of this Declaration for the purpose of annexing property to this Declaration and extending the jurisdiction of the Association to the Additional Property. The Supplemental Declaration may contain additional terms not inconsistent with this Declaration to reflect the different character, if any, of the real property being annexed or of the housing or development approaches being implemented. Upon the recordation of any Supplemental Declaration, the Owners shall also have a right and non-exclusive easement of use and enjoyment in and to the Common Property, if any, within the Additional Property and an obligation to contribute to the cost of operating, maintaining and insuring the additional Common Property and any additional Areas of Common Responsibility. Any Supplemental Declaration recorded in accordance with the terms hereof shall be conclusive in favor of all persons who rely thereon in good faith. From and after recordation of any Supplemental Declaration, the Additional Property described therein shall be subject to the provisions of this Declaration and to the jurisdiction of the Association.

Section 4. Withdrawal. Declarant reserves the right to amend this Declaration unilaterally at any time for the purpose of removing any portion of the Property (including, without limitation Lots and Common Property) without notice and without the consent of any person or entity other than the owner of the portion of the Property to be withdrawn or the District; provided, however, no such withdrawal may impair access to any Lot.

## ARTICLE III

## THE ASSOCIATION

Section 1. The Association. The Association is a nonprofit corporation. The Association shall have the power to do all lawful things which may be authorized, assigned, required or permitted to be done by this Declaration, the Articles, or the Bylaws, and to do and perform any and all acts which may be necessary or proper for, or incidental to, the exercise of any of the duties or powers of the Association for the benefit of the Owners and for the maintenance, administration and improvement of the Property and Areas of Common Responsibility. Neither the Articles nor the Bylaws shall be amended or interpreted so as to be inconsistent with this Declaration. In the event of any such inconsistency, the provisions of this Declaration shall prevail. The officers and directors of the Association shall be required to be either (1) a Member of the Association, or (2) an agent of Declarant. The Board, and such officers as the Board may appoint, shall conduct the affairs of the Association.

Section 2. Membership. Each Owner (including Declarant) shall be a Member of the Association. The Association membership of each Owner shall be appurtenant to and inseparable from

the Lot and Dwelling Unit giving rise to such membership, and any transfer of title to a Lot shall operate automatically to transfer to the new Owner the membership in the Association appurtenant to that Lot.

Section 3. Voting Rights. The Association shall have two (2) classes of voting membership:

(a) Class "A". Class "A" Members shall be all Owners, with the exception of Declarant for so long as Declarant retains Class "B" voting rights. Each Class "A" Member shall have one (1) vote for each Lot owned by that Member.

(b) Class "B". The sole Class "B" Member shall be Declarant. Declarant shall be entitled to three (3) votes for each Lot in the Property owned by Declarant, plus three (3) votes for each potential subdivision lot that has not yet been annexed but which could be developed upon the lands eligible for annexation to the Property under the terms of the Declaration. Upon the execution of this Declaration, Declarant shall have four hundred fifty-six (456) Class "B" votes representing three (3) votes for each of the one hundred fifty-two (152) Lots in the Property. The Class "B" Member shall be entitled to cast all of its votes in any vote or election held by the Association.

(c) Termination of Class "B" Membership. As each Lot in the Property is conveyed by Declarant to a Class "A" Member, Declarant's votes for that Lot shall lapse. The Class "B" membership shall terminate and become converted to Class "A" membership upon the earlier of the following:

(i) When the total outstanding Class "A" votes in the Association equals or exceeds the total outstanding Class "B" votes; or

(ii) Ten (10) years from the date of recording of this Declaration; or

(iii) At such earlier time as Declarant, in its sole discretion, may so elect.

Upon the happening of any one of these events, Declarant shall call a special meeting of the Members to advise of the termination of Class "B" membership.

(d) Transition of Control. Any other provision of this Article III to the contrary notwithstanding, Owners other than Declarant shall be entitled to elect at least a majority of the members of the Board of Directors not later than three (3) months after ninety percent (90%) of the Lots that will or may ultimately be operated by the Association have been conveyed to Owners. Declarant shall be entitled to elect at least one member of the Board of Directors as long as Declarant holds for sale in the ordinary course of business at least five percent (5%) of the Lots. After Declarant relinquishes control of the Association, Declarant may exercise the right to vote any Declarant-owned voting interests in the same manner as any other Owner, except for purposes of reacquiring control of the Association or selecting the majority of the members of the Board of Directors.

Section 4. Multiple Owners. Each vote in the Association must be cast as a single vote, and fractional votes shall not be allowed. If joint or multiple Owners are unable to agree among themselves as to how their vote is to be cast, or if more than one (1) Class "A" vote is cast for any Lot, none of the votes for that Lot shall be counted. If any Owner casts a vote on behalf of a Lot, it shall be conclusively presumed that Owner was acting with the authority and consent of all other Owners of that Lot.

## ARTICLE IV

## COMMON STRUCTURAL ELEMENTS

Section 1. Definition. Each Building contains or shall contain certain elements, features or parts which are structural elements of the Building or of more than one Dwelling Unit (such elements, features, or parts being hereinafter referred to as "Common Structural Elements"). The Common Structural Elements of each Building shall include, but are not necessarily limited to, the following:

(a) Party Walls. All division walls between two townhomes beginning at the unfinished surface of each side of such wall (hereinafter referred to as "Party Walls") located upon a Property Line between two townhomes, provided that the mere fact such a division wall between two Townhomes is found not to be on a Property Line shall not preclude such division wall from being a Party Wall.

(b) Roofing. The entire roof of the Building, any and all roof support structures, and any and all appurtenances to such roof and roof support structures, including, without limitation, the roof covering, roof trim and roof drainage fixtures, all of which are collectively referred to herein as the "Roofing." Should the Roofing or any part thereof extend beyond the Lot boundaries, same shall not be deemed to violate the provisions of this Declaration and such easements as may be necessary to accommodate and permit the Roofing as same shall be constructed or hereby imposed.

(c) Foundation. The entire concrete floor slab (or other floor system if used in lieu thereof) and all foundational and support structures and appurtenances thereto, all of which are collectively referred to as the "Foundation." Should the Foundation or part thereof extend beyond the Lot boundaries, same shall not be deemed to violate the provisions of this Declaration and such easements as may be necessary to accommodate and permit the Foundation as same shall be constructed or thereby imposed.

Section 2. General. Each Owner shall own that portion of the Party Wall which stands on his own Lot. To the extent not inconsistent with the provisions of this Article, the general rule of law regarding Common Structural Elements and liability for property damage due to negligence or willful acts or omissions shall apply to each Common Structural Element (or party fence, if applicable) which is built by Declarant and/or Builder as part of the original construction of the Dwelling Units or is an Initial Improvement upon the Lots and any replacement thereof.

If any portion of any Initial Improvement or structure, as originally constructed by Declarant or its designee, including any Party Wall, Roof, or fence, shall protrude over two adjoining Lots, it shall be deemed that said Owners have granted perpetual easements to the adjoining Owner or Owners for continuing maintenance and use of the projection, Party Wall, Roof, or fence. The foregoing shall also apply to any replacements of any structures, Party Walls, Roofs or fences, if same are constructed in conformance with the original structure, party wall or fence. The foregoing conditions shall be perpetual in duration and shall not be subject to amendment of these covenants and restrictions.

Section 3. Maintenance, Repair and Replacement The Association shall be responsible for regular repair and maintenance of those particular Common Structural Elements that also constitute Exterior Building Surfaces, including maintenance for normal wear and tear, and replacement at the end of the useful life thereof, as more particularly set forth in Article IX, herein. The costs of reasonable repair, maintenance and replacement of such Exterior Building Surfaces shall be paid for from Association reserves for which the Association shall budget and collect as part of the Annual Assessments, as set forth in this Declaration. Such maintenance and repair shall be performed by the Association pursuant to Article IX below. However, each Owner shall be responsible to install and maintain all interior surface coverings (e.g., paint, wallpaper, carpeting, tile, ceiling surfaces) as to any

Common Structural Element within the Owner's Dwelling Unit, as more particularly set forth in Article X, herein.

Section 4. Destruction by Fire or Other Casualty. In the event of damage or destruction of Common Structural Elements from any cause whatsoever, the Association shall, repair or rebuild such Common Structural Elements in accordance with the requirements of Article XVII of this Declaration, and each Owner in that Building, his successors and assigns, shall have the right to full use as herein contained of said Common Structural Elements so repaired or rebuilt. Each Owner within that Building shall pay the full cost of such repair or reconstruction, which payment shall include (but shall not be limited to) any and all insurance proceeds due and payable pursuant to the Owner's property insurance policy, as required herein, and all applicable deductibles. To assure adequate and timely repair and reconstruction, all monies required hereby to be paid by Owner shall be paid to the Association and administered as set forth in Article VI. If damage or destruction is a result of one Owner's negligence or willful misconduct, that party shall be responsible for the total repair and replacement in a timely fashion. If any Owner fails to pay his share of repair or replacement, as aforesaid, then the Association may have such Common Structural Elements repaired or reconstructed and shall be entitled to file in the Public Records of the County, a claim of lien on the premises of the Owner failing to pay for the amount of such defaulting Owner's share of the repair or replacement costs, plus interest and collection expenses. The Association shall have the right to foreclose said claim of lien in accordance with the same procedural requirements as now provided for in Florida Statutes for foreclosure of a mechanic's lien; provided, however, such claim of lien shall be filed within ninety (90) days from the date repairs or replacements were made to the Common Structural Elements, and suit thereon shall be commended one (1) year form the date such lien is filed.

Section 5. Easement for Repairs. If repairs or reconstruction to the Common Structural Elements shall be necessary, all necessary entries on or into the adjacent Dwelling Unit upon the Adjacent Lot shall not be deemed a trespass so long as the repairs and reconstruction shall be done in a timely and workmanlike manner, and, in the event entry on a Dwelling Unit is required, reasonable notice is provided to the Owner. Subject to the foregoing, consent is hereby given to enter on or into adjacent Dwelling Units to effect necessary repairs and reconstruction.

Section 6. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 7. Weather Proofing. Notwithstanding other provisions of this Article, an Owner who by his negligent or willful act causes a Party Wall to be exposed to the elements, shall bear the whole cost of furnishing the necessary repair and protection against such elements.

Section 8. Arbitration. In the event of any dispute arising concerning Common Structural Elements, or under the provisions of this Article, each party shall choose one arbiter, and such arbiters shall choose one additional arbiter, and the decision of a majority of all of the arbiters shall be final and conclusive of the questions involved.

Section 9. Alterations. The Owner of a Dwelling Unit sharing a Party Wall with an adjoining Dwelling Unit shall not cut windows or other openings in the Party Wall, nor make any alterations, additions or structural changes in the Party Wall.

Section 10. Structural Cross Easements. Cross easements of support and use over, upon, across, under, through and into the Common Structural Elements shall exist in favor of the Association, the Owners or their designees for the continued use, benefit and enjoyment and continued support, maintenance, repair and design of all Dwelling Units and Common Structural Elements within any of the Buildings.

## ARTICLE V

## PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 1. Easements. The Association and each Owner (including Declarant) shall have a non-exclusive right and easement of use and enjoyment in and to the Common Property. Said right and easement shall be appurtenant to and pass with the title to each Lot, and shall include, without limitation, the following:

(a) Right-of-way for ingress and egress by vehicles and on foot through and across any streets, roads or walks in the Common Property for all lawful purposes; and

(b) Rights and easements to drain across the Surface Water Management System in accordance with the Permit and District rules; and

(c) Rights to connect to, maintain and make use of utility lines, wires, pipes, conduits, cable television lines, telephone lines and equipment, sewers and drainage lines which may from time to time be in or along areas of the Common Property, but only in accordance with applicable laws and regulations and the requirements of the applicable entities which regulate said utilities; and

(d) Rights and easement to use and enjoy the Common Property for any purpose not inconsistent with this Declaration, the Articles, the Bylaws, the rules and regulations of the Association, or law.

Section 2. Blanket Easement over Lots for Landscaping, Maintenance, Repair and Replacement by the Association. The Association is granted a perpetual, non-exclusive easement for ingress and egress, at all times, over and across each Lot, for the Association to fulfill its obligations as set forth in this Declaration; provided however, that if the Association is ever dissolved, then all maintenance, repair and replacement obligations relating to the Lots located thereon shall be the responsibility and financial obligation of the Owner owning each Lot and Dwelling Unit.

Section 3. Easement for Access and Drainage. The Association shall have a perpetual non-exclusive easement over all areas of the Surface Water Management System for access to operate, maintain or repair the system. By this easement, the Association shall have the right to enter upon any portion of any lot which is a part of the Surface Water Management System, at a reasonable time and in a reasonable manner, to operate, maintain or repair the Surface Water Management System as required by the Permit, subject to any maintenance responsibilities assumed by any governmental authority. Additionally, the Association shall have a perpetual non-exclusive easement for drainage over the entire Surface Water Management System. No person shall alter the drainage flow of the Surface Water Management System, including buffer areas or swales, without the prior written approval of the District.

Section 4. Title to Common Property. Declarant shall convey to the Association or, if required by the Local Government incidental to the establishment of an MSTU/MSBU as described in Article V, Section 8, dedicate to the Local Government for the uses and purposes set forth in this Declaration or in any subdivision plat of the Property fee simple title in and to the Common Property free and clear of all encumbrances except taxes, applicable subdivision plats, this Declaration and any easements recorded in the public records prior to the conveyance to the Association. Once conveyed to the Association, the Common Property may not be mortgaged or further conveyed without the consent of at least two-thirds (2/3) of the Owners (excluding Declarant).

Section 5. Extent of Easements. The rights and easements created in this Article V shall be governed by the following:

(a) Subject to any rights of Declarant and the Owners set forth in this Declaration, the Association shall be responsible for the exclusive management, control and maintenance of the Common Property.

(b) Declarant, until conveyance of title to the Association, and the Association thereafter, may reserve to itself or to grant or dedicate (subject to the terms of Article XII) to Declarant, any Owner, any governmental agencies and/or to any utility companies, easements and rights-of-way, over, under or through the Common Property for installation, use, maintenance and inspection of lines and appurtenances for public or private utilities, surface water drainage improvements and areas, or completion of the development. No improvement or material may be placed upon any such easement which may damage or interfere with the installation or maintenance of utilities or the easement area or that may alter or impede the direction or flow of drainage.

(c) Declarant's rights reserved in this Declaration.

(d) Matters shown on any plat(s) of the Property.

Section 6. Additional Easements over Common Property. Declarant hereby creates, reserves and declares to exist the following licenses, rights, privileges and easements over, under and through the Common Property subject at all times to the terms and conditions of the Permit and subject to receiving prior written approval of the District as to any activities that may affect or may occur on or within the Surface Water Management System and Conservation Easement Area, including any upland buffers: (i) rights-of-way and easements to install, maintain and use electric, lighting, telecommunications, cable television, telephone, gas, water, sewer, drainage and utility poles, wires, cables, conduits, fixtures, pipes, meters, equipment, facilities, ponds, swales, berms or ditches, and other equipment and improvements necessary or convenient for the completion, marketing, use and enjoyment of the Property, (ii) the right to cut trees, bushes or shrubbery, make any gradings of the soil, and take any similar action reasonably necessary to provide economical and safe utility and drainage installation or to maintain reasonable standards of health, convenience, safety and appearance, (iii) the right to locate thereon wells, pumping stations and irrigation systems and lines, (iv) easement of ingress and egress for purposes of development, construction and marketing, and (v) such other rights as may be reasonably necessary to complete in an orderly and economic manner the development and sale of the Property including, without limitation, the maintenance of temporary signage and trailers used in such development and sales efforts; provided, however, that said reservation and right shall not be considered an obligation of Declarant to provide or maintain any such easement, utility, equipment or service. Declarant also reserves the right to connect with and make use of the utility lines and drainage improvements which may from time to time be in or along the streets and roads, or within the Common Property or platted easements. The easements and rights-of-way herein reserved shall continue in existence in favor of Declarant after conveyance of the Common Property to the Association or dedication to the Local Government until such time as Declarant has sold all Lots in the Property and in any lands separately developed by Declarant and located adjacent to the Property.

Declarant also reserves a perpetual right and easement to irrigate the Common Property with treated effluent from a wastewater treatment facility, if any. The benefit of this reservation shall inure to Declarant and its specifically designated successors and assigns, but not in favor of any other Owner and shall remain in effect whether or not Declarant owns any Lots in or lands adjacent to the Property.

Section 7. Delegation. Any Owner (including Declarant) may grant the benefit of any easement, right or privilege to tenants and guests for the duration of their tenancies or visits, but same shall not be construed to create any rights in the general public.

Section 8. MSTU/MSBU. Declarant or the Local Government may establish a municipal service taxing unit, municipal service benefit unit, or similar mechanism (sometimes referred to in this

Declaration as "MSTU/MSBU"), to provide for any one or more of the following: (a) operation and maintenance by the Local Government of any of the Common Property, and any recreational, drainage or other improvements thereon, for the uses and purposes set forth in this Declaration or in any applicable subdivision plat, which may or may not include a requirement that ownership of the affected lands and improvements be transferred to the Local Government, (b) construction or improvement of recreation, drainage, sidewalk, wall, landscaping, open space, conservation, or other areas, improvements or facilities on or within the Common Property or any easement areas for the use and benefit of the Property and the occupants thereof, and (c) construction, operation or maintenance of street lighting or any other service or benefit to or for the Property authorized under the terms of this Declaration or the MSTU/MSBU, or by the applicable governmental authority. It is anticipated that the costs incurred by the MSTU/MSBU will be billed directly to the Owners or to the Association for subsequent assessment to the Owners and Lots.

## ARTICLE VI

## INSURANCE

Section 1. Common Areas.

(a) General Liability. The Association, by action of its Board of Directors, shall maintain public liability insurance, to the extent obtainable, covering the Association and each Association Member, lessee and occupant, and the managing agent, if any, against liability for any negligent act or commission or omission attributable to them which occurs on or in the Common Areas.

(b) Additional Insurance. To the extent obtainable, the Board of Directors shall also be required to obtain the following insurance:

(i) Vandalism and malicious mischief endorsements, insuring the Common Areas; and

(ii) worker's compensation insurance, if required by law; and

(iii) Directors' and Officers' liability insurance, fidelity insurance and other insurance it may deem proper to protect the Association, its members and property.

(iv) Property insurance on all Common Property, including any facilities, buildings, or other such structures located thereon.

(c) Assured and Loss Payable. All casualty insurance policies purchased by the Association hereunder shall be for the benefit of the Association and all Owners and their mortgagees as their interests may appear and shall provide that all proceeds covering casualty losses of $10,000.00 or less shall be paid to the Association. Any sum in excess of $10,000.00 shall be paid either to the Association or to an insurance trustee as the Association shall determine at the time. An "Insurance Trustee" shall be any bank or trust company or other corporate trustee authorized for and doing business in Florida, as designated by the Board of Directors of the Association. The duty of the Insurance Trustee shall be to receive such proceeds as are paid to it and to hold the same in trust pursuant to the terms of the Insurance trust agreement to be executed by the Association and the Insurance Trustee, which shall not be inconsistent with any of the provisions herein set forth.

(d) Payment of Premiums. The Board of Directors shall collect and pay the premiums for insurance as a part of the Operating Expenses. Expenses of any Insurance Trustee appointed shall be paid by means of special assessments by the Board.

(e) Mandatory Repair. Unless there occurs substantial damage or destruction to all or a substantial part of any Common Area facilities, buildings, or other such structures, the Association and the Owners shall use insurance proceeds to repair, replace and rebuild the damage caused by casualty loss. Related costs and expenses not covered by insurance shall be borne by the Owners in a fair and equal manner.

(f) Association as Agent. The Association is hereby irrevocably appointed agent for each Owner to adjust all claims arising under insurance policies purchased by the Association, and to execute releases thereof.

Section 2. Dwelling Units, Lots.

(a) (i) Owner's Insurance Coverage. Each Owner shall be required to obtain and maintain adequate insurance on his Dwelling Unit which shall insure the property for its full replacement value, with no deduction for depreciation, against loss by fire, storm or other hazards or casualty. Such insurance shall name the Association an additional insured and shall be sufficient to cover the full replacement value, or to cover necessary repair or reconstruction work. Such insurance shall be written in the manner acceptable to the Board of Directors of the Association and shall contain a clause which provides ten (10) days prior written notice to the Board of Directors of the Association before the policy can be cancelled. Each Owner shall be required, upon purchase of the Lot and on an annual basis, concurrent with the payment of annual assessments pursuant to Article VII hereof, to supply the Board of Directors with evidence of insurance coverage on his Dwelling Unit which complies with the provisions of this Section. Each Owner shall also be responsible for the purchasing of liability insurance for accidents occurring on his or her Lot.

(ii) Action by Board. If the insurance provided under this Section has not otherwise been adequately obtained by each Owner, as determined by the Board of Directors, then the Board may obtain such insurance coverage. Insurance obtained by the Board of Directors shall be written in the name of the Association as Trustee for the benefit of the applicable Owner. However, the Association shall have no obligation to obtain such insurance, and failure to do so shall not relieve any Owner of its obligation to pay to repair casualty damage to its Dwelling Unit, or to perform such repairs.

(iii) Payment of Premium. Premiums for insurance obtained by the Board of Directors for the benefit of an individual Owners, as provided hereinabove, shall not be an Operating Expense, but shall be an individual assessment (special assessment) payable in accordance with the provisions of Article VIII of this Declaration.

(iv) Repair or Replacement of Damaged or Destroyed Property. Subject to the provisions of Section (b) below, each Owner shall be required to reconstruct or repair any Dwelling Unit or any portion thereof destroyed by fire or other casualty, regardless of whether insurance is obtained by the Owner or if the Dwelling Unit is covered by insurance written in the name of the Association as Trustee. If no repair or rebuilding has been contracted for, or otherwise substantially started by the Owner within thirty (30) days of the receipt of the insurance proceeds, the Board of Directors may itself initiate the repair or rebuilding of the damaged or destroyed portions of the structure and/or exterior of the Dwelling Unit pursuant to Section 2(b) hereinbelow.

(b) Association Action. Notwithstanding the provisions of the above subsection (a) of this Section 2, the following provisions shall also apply to Dwelling Units which have Common Structural Elements:

(i) Association Approval. The insurance referred to in subsection (a) of this Section shall be written in a manner acceptable to the Association. The Association shall carry out the functions set forth hereafter.

(ii) Insurance Trustee. Each policy shall contain a loss payment provisions which provides that the proceeds of any loss affecting Common Structural Elements shall be payable to the Association who shall hold such funds in trust to insure that repairs are made as hereinafter set forth. Each policy shall also contain a clause that it is non-cancelable without ten (10) days prior written notice to the Association. Each Owner shall be required to supply the Association with evidence of insurance coverage on his Dwelling Unit which complies with the provisions of this Section.

(iii) Action by Board. If the insurance provided under this Section has not otherwise been adequately obtained by each Owner, as determined by the Board of Directors of the Association, then the Board of Directors of the Association may (in its sole discretion) obtain such insurance coverage. The purpose of such insurance will be to protect, preserve and provide for the continued maintenance and support of separately owned Dwelling Units which shall include Common Structural Elements. Insurance obtained by the Board of Directors of the Association shall be written in the name of the Association, as Trustee, for the benefit of the applicable Owner.

(iv) Payment of Premiums. Premiums for insurance obtained by the Board of Directors for the benefit of an individual Owner, as provided hereinabove, shall not be a part of the Operating Expenses, but shall be an individual assessment (special assessment) payable in accordance with the provisions of Article VIII of this Declaration.

(v) Repair or Replacement of Damaged or Destroyed Property. Each Owner shall, subject to the approval and the Board of Directors of the Association, be required to reconstruct or repair any Dwelling Unit destroyed by fire, storm or other casualty in accordance with the requirements of Article XVII of this Declaration.

In the event Common Structural Elements are damaged by any such casualty, the Association shall manage and facilitate all such reconstruction or repair of Common Structural Elements on behalf of the Owner(s). In the event such casualty affects more than one Dwelling Unit, the Association shall have the authority to reasonably allocate the respective shares and financial obligations of the affected Owners in order to fully complete the required replacement and repairs.

Any and all insurance proceeds issued for the repair of Common Structural Elements shall be issued in the name of the Association, as Trustee. The insurance proceeds, together with any and all deductibles and all other sums payable by the Owners of such insurance policies, shall be deposited in a bank or other financial institution, subject to withdrawal only by the signature(s) of an agent(s) duly authorized by the Board of Directors of the Association. The Association shall use the proceeds for the reconstruction and replacement of the Dwelling Unit's Common Structural Elements. Owners shall be responsible for repairing all other damage to their Dwelling Units and the Association shall not be obligated in any manner whatsoever to repair, replace or reconstruct any other damage to Dwelling Units. Once Owner has paid to the Association the insurance proceeds and deductibles allocated for repair and

reconstruction of Common Structural Elements, the Association shall have no further claims to Owner's insurance claims covering internal damage to the Dwelling Unit which may be paid to Owner as to that particular event or casualty. Repairs should be done in a good and workmanlike manner in conformance with the original plans and specifications of each Dwelling Unit. The Board of Directors of the Association may advertise for sealed bids from any licensed contractors and may then negotiate with said contractors. The contract or contractors selected to perform the work shall provide full performance and payment bonds for such repair or rebuilding, unless such requirement is waived by the Board of Directors of the Association. If the insurance proceeds are insufficient to fully pay the costs of repairing and/or rebuilding the damaged or destroyed portions in a good and workmanlike manner, the Board of Directors of the Association shall levy a special assessment against the Owner(s) in whatever amount is required to make up the deficiency. If the insurance proceeds exceed the cost of repairing and/or rebuilding, such excess shall be paid over to the respective Owner and/or the Owner's mortgagee in such portions as shall be independently determined by those parties.

(c) Administrative Fee. Should the Association obtain the insurance coverage on a Dwelling Unit pursuant to this Article, then the Association may charge and the applicable Owner shall be responsible for, as a special assessment against the Lot, an administration fee of $100.00. Said fee is in addition to the charge for the premium, for which Owner is also responsible.

(d) Notwithstanding anything to the contrary in this Article, the Association, its Director or officers, shall not be liable to any person should it not for any reason provide insurance coverage on any Dwelling Unit.

## ARTICLE VII

## ARCHITECTURAL CONTROL

Section 1. Purpose. The Association, through the ARB, shall have the right to exercise architectural control over all Improvements constructed, erected, or placed upon any part of the Property, to assist in making the Property a community of high standards and aesthetic beauty. The Association shall also exercise control over landscaping improvements in order to maintain a common landscaping scheme. Such architectural control may include all architectural aspects of any such Improvement, including, without limitation, size, height, site planning, setbacks, exterior, materials, colors, open space, landscaping, and aesthetic criteria; provided however, that any ARB approval shall not be deemed a statement, representation or indication that such Improvement complies with any applicable law, regulation, or ordinance. The purpose of this review procedure is solely to promote the aesthetic development of the Property to assure that the Architectural Guidelines, as established from time to time, are complied with. This review is not intended to be a condition to the issuance of a building permit by the Local Government and the review undertaken by the Declarant or the ARB is not to be construed as any quasi governmental action. The Declarant shall have the sole right to approve the Initial Improvements on the Property and the rights granted to the ARB hereunder shall only be in effect after the Residence has been completed.

Section 2. Membership of ARB. So long as Declarant or its designee owns any Lots subject to this Declaration, Declarant shall be entitled to appoint all members of the ARB. Thereafter, the membership of the ARB shall be determined by the Board, the ARB shall consist of no less than three (3) members, none of whom shall be required to be Owners or occupants of the Property. No member of the ARB shall be entitled to compensation for services performed, but the ARB may employ professional advisors and pay reasonable compensation to such advisors at Common Expense. Members of the ARB (other than those appointed or designated by the Declarant) may be removed by the Board of Directors at

any time without cause. Members of the ARB appointed or designated by the Declarant my only be removed by the Declarant.

Section 3. Architectural Guidelines. The ARB or Declarant, as applicable, shall adopt, and revise from time to time, reasonable rules of procedure and standards for the submission and review of any matter to be brought before it and the inspection and final approval of any completed work done pursuant to any approval of the ARB (the "Architectural Guidelines"). Such rules shall be (i) subject to the prior approval of the Board of Directors, (ii) consistent with the covenants and restrictions set forth in this Declaration, and (iii) published or otherwise made available to all Owners and their contractors, subcontractors and other appropriate designees. All rules of the ARB shall be adopted and/or amended by a majority vote thereof.

Section 4. Application/Approvals.

(a) Applications. It is the responsibility of each Owner applying for approval to supply two (2) sets of specifications, plans, or other pertinent information regarding the proposed modification or alterations for which such Owner requests ARB approval.

(b) Approvals. Decisions of the ARB shall be by majority action and shall be approved or disapproved within thirty (30) days after receipt by the ARB. The ARB approval or disapproval shall be written and shall be accompanied by one (1) copy of the plans, etc., to be returned to the Owner. Whenever the ARB disapproves plans, the ARB shall specify the reason or reasons for such disapproval. Approval shall be granted or denied by the ARB based upon compliance with the provisions of this Declaration and any Architectural Guidelines established pursuant thereto, the quality of workmanship and materials, the harmony of external design with its surroundings, the effect of the construction on the appearance from surrounding Lots, and all other factors, guidelines and standards promulgated from time to time, including purely aesthetic considerations, which, in the sole opinion of the ARB, will affect the desirability or suitability of the construction.

Section 5. Violations. All approved work must be performed strictly in accordance with the plans as approved. If after plans have been approved, the improvements are altered, erected, or maintained upon the Lot other than as approved, same shall be deemed to have been taken without ARB approval. After one (1) year from completion of any improvement, addition or alteration, said improvement shall, in favor of purchasers and encumbrances in good faith and for value, be deemed to comply with the provisions hereof unless a notice of such noncompliance executed by any member of the ARB shall appear in the public records of the County, or legal proceedings shall have been instituted to enjoin the noncompliance or to enforce compliance with these provisions.

Section 6. Variances. The ARB or Declarant, as applicable, may authorize a variance from compliance with the Architectural Guidelines or any of the architectural provisions of this Declaration when circumstances such as topography, natural obstructions, hardships, or aesthetic or environmental considerations may reasonably require. The granting of any variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular Lot and the particular provision covered by the variance, nor shall it affect the Owner's obligation to comply with governmental requirements. Such variances may only be granted when unique circumstances dictate and no variance shall (i) be effective unless in writing, (ii) be contrary to the restrictions set forth in this Declaration, or (iii) estop the ARB from denying a variance in other circumstances.

Section 7. Waiver of Liability. None of Declarant, Builder, the ARB, the Directors or the Association, or any agent or employee thereof shall be liable to anyone submitting plans for approval or to any Owner, occupant or guest of the Property by reason of or in connection with approval or disapproval of any plans, or for any defect in any plans submitted, revised or approved in accordance with the requirements of the ARB, or for any structural or other defect in any work done according to such

plans. Approval of plans, or any other approvals, variances or consents, are given solely to protect the aesthetics of the Property in the judgment of the ARB and shall not be deemed a warrant, representations or covenant that any action taken be in reliance thereon complies with applicable laws, codes, rules or regulations, nor shall ARB approval be deemed approval of any plan or design from the standpoint of structural safety or conformity with building or other codes. Every person who submits plans for approval agrees, by submission of such plans, and every Owner or occupant of any Lot agrees, by acquiring title thereto or an interest therein, that it will not bring any action, proceeding or suit to recover any such damages and shall be deemed to have automatically agreed to hold harmless and indemnify the aforesaid parties from and for any loss, claim or damages connected with the aforesaid aspects of the improvements or alterations.

Section 8. Enforcement. Declarant and the Association shall have standing and authority on behalf of the Association to enforce in courts of competent jurisdiction the Architectural Guidelines and the decisions of the ARB. Should Declarant or the Association be required to enforce the provisions hereof by legal action, the reasonable attorneys' fees and costs incurred, whether or not judicial proceedings are involved, including the attorneys' fees and costs incurred on appeal from judicial proceedings, shall be collectible from the violating Owner. Should any Owner fail to comply with the requirements hereof after thirty (30) days' written notice. Declarant and the Association shall have the right but not the obligation to enter upon the Owner's property, make such corrections or modifications as are necessary, or remove anything in violation of the provisions hereof or the Architectural Guidelines, and charge the cost thereof to the Owner as an individual assessment. Declarant and the Association, or their agents or employees, shall not be liable to the Owner or to any occupant or invitee of any Lot for any trespass or damages or injury to property or person for any action taken hereunder unless accused by gross negligence or intentional wrongdoing.

Section 9. Exemption. Declarant and Builder shall be exempt from the architectural control provisions of this Article VII. Declarant and Builder shall be entitled to construct or install any Initial Improvements, and to alter or change any existing improvement, without submitting plans to or obtaining the approval of the ARB.

Section 10. No Waiver of Future Approvals. The approval of the ARB of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the ARB, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters subsequently or additionally submitted for approval or consent.

Section 11. Change in Buildings. Neither the Association nor any Owner shall make or permit any structural modification or alteration of any Common Structural Elements of any Building except with the prior written consent of the ARB, or its successor, and all Institutional Mortgagees holding a mortgage on a Dwelling Unit within said Building. Notwithstanding the foregoing, maintenance and/or repair of such structures in a manner consistent with the Initial Improvements shall not require the foregoing consents. Consent may be withheld if, in the sole discretion of the party requested to give the same, it appears that such structure modification or alteration would affect or in any manner endanger other Dwelling Units. No Building shall be demolished or removed without the prior written consent of all Owners of all other Dwelling Units within such Building and of all Institutional Mortgagees holding a mortgage on a Dwelling Unit within said Building, and also the prior written consent of Declarant or its successors. Declarant shall have the right, but shall not be obligated, to assign all of its rights and privileges under this Article to the Association.

## ARTICLE VIII

## COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Lien and Personal Obligation Nonpayment.

(a) Declarant, for each Lot owned by it in the Property, and each Owner other than Declarant by acceptance of title to any Lot, whether or not it shall be so expressed in any deed or other conveyance, covenants and agrees to pay to the Association: (1) annual assessments or charges, (2) special assessments, (3) individual assessments, and (4) a one-time only start-up assessment. Said assessments shall be fixed, established and assessed as herein provided. Assessments, together with such interest and late charges as shall be imposed by the Board at its discretion, and the cost of collection thereof, including without limitation court costs and reasonable attorneys' and paralegals' fees before trial, at trial and on appeal, shall be a charge and a continuing lien upon the Lot against which such assessment is made, and upon any Dwelling Unit located on said Lot, from and after the date on which such assessment is due. Each assessment, together with said interest, late charges, costs and fees, shall also be the personal obligation of each person who was an Owner of the Lot at the time the assessment fell due.

If any assessment or installment thereon is not paid when due, then such assessment shall be delinquent and the delinquent assessment, together with interest, late charges, and collection costs, shall be secured by a continuing lien on the Lot as to which the assessment accrued, and upon any Dwelling Unit located thereon. Such lien shall be prior to all other liens hereinafter created except taxes or assessments levied by governmental authority, and except as to the lien of any mortgage. The lien shall be prior to and superior in dignity to homestead status. The lien shall bind the Lot and any Dwelling Unit located thereon in the hands of the then Owner and of each subsequent Owner. The personal obligation of the Owner to pay such delinquent assessment shall remain that Owner's personal obligation for the statutory limitations period and personal liability shall not pass to successors in title unless expressly assumed by them.

If the delinquent assessment or installment thereon is not paid within thirty (30) days after the due date, same shall bear interest from the date due at the highest lawful rate in Florida, or at such lesser rate as may be determined by the Board and uniformly applied, and the Association may bring an action for collection against the Owner personally obligated to pay the same and to foreclose the lien against the Lot and any Dwelling Unit located thereon by judicial foreclosure in the same manner as foreclosure of a mortgage, and there shall be added to the amount of such assessment the aforesaid interest, late charges, collection costs and attorneys' and paralegals' fees, and fees and collection costs shall be recoverable whether or not suit be brought. The Owner shall also be required to pay the Association any assessments against the Lot which become due during the period of foreclosure. The Association shall have the right and power to bid at the foreclosure sale and to own sell, lease, encumber, use and otherwise deal with the Lot and any Dwelling thereon as owner thereof.

(b) Exempt Property. The following property shall be exempt from the assessments, charges and liens created herein: (1) Common Property; (2) lands owned by Declarant which have not been annexed to the Property by this Declaration or any Supplemental Declaration; (3) lands dedicated to the Local Government or other governmental authority, any utility company or the public; and (4) Lots owned by Declarant during the period of time that Declarant subsidizes the Common Expenses of the Association pursuant to Section 8 of this Article. No other land or improvements in the Property shall be exempt from these assessments, charges or liens. No Owner may avoid assessment obligations by virtue of non-use or abandonment of the Common Property.

Section 2. Purpose. The assessments levied by the Association shall be used to promote the recreation, health, safety and welfare of the Owners, to perform the Association's duties and to exercise the powers conferred on it, to improve, operate, insure and maintain the Common Property and the Areas

of Common Responsibility, and to pursue any other purpose deemed desirable or appropriate by the Board, including without limitation any one or more of the following: (a) payment of Association operating expenses; (b) lighting, irrigation, maintenance, improvement and beautification of streets and easement areas, and acquisition, maintenance, repair and replacement of community identification signs and traffic control devices, and control and regulation of traffic in the Property; (c) payment, contest or compromise of real and personal property taxes and assessments separately levied upon or assessed against the Association or the Common Property; (d) operation, management, insurance, replacement, maintenance, repair, beautification and improvement of the Common Property, Areas of Common Responsibility, and easement areas benefiting the Association; (e) repayment of any deficits previously incurred by the Association; (f) funding of reserves for future Common Expenses, (g) procurement and maintenance of insurance, (h) employment of accountant attorneys and other professionals to represent or advise the Association; (i) operation, maintenance and repair of the Surface Water Management System for the Property in accordance with the terms of this Declaration and the requirements of the District; (j) monitoring of protected wetlands as required by the District; and (k) doing anything necessary or desirable in the judgment of the Board to keep the Property neat and attractive, to preserve or enhance the value thereof, to eliminate fire, health or safety hazards, or otherwise to benefit the Owners.

Section 3. Determination of Annual Assessments.

(a) Operating Budget. At least thirty (30) days prior to the end of the Association's fiscal year, the Board shall prepare a budget of the estimated costs of operating the Association during the coming year, including but not limited to operational items such as overhead and indirect costs, insurance, utilities, taxes, professional fees, repairs, reserves, maintenance and other operating expenses, as well as charges to cover any deficits from prior years, and capital improvement budget items approved by the Board under Subsection (b), below.

(b) Capital Budget. Each year, the Board shall approve a capital budget taking into account the number, type, useful life and expected replacement cost of replaceable assets. The Board shall then set the required annual capital contribution in an amount sufficient to meet the projected capital needs of the Association on a timely basis and to establish and maintain adequate reserves for such expenditures. The annual capital contribution fixed by the Board shall then be included in the annual operating budget and annual assessments described in Subsection (a), above.

(c) Adoption of Operating Budget. The Association shall mail to each Member a copy of the capital budget, operating budget and projected annual assessments approved by the Board to be levied for the next fiscal year at least thirty (30) days prior to the end of the Association's current fiscal year. The operating budget and annual assessments shall become effective unless disapproved at a special meeting of the Members held not later than sixty (60) days after the proposed budget and assessments are mailed to the Members. To be effective, the disapproval must be by a vote of two-thirds (2/3) of the membership of the Association, without regard to class. If the membership so disapproves the operating budget for the succeeding year, or if the Board fails to propose a budget, then the budget and annual assessments for the preceding year shall continue in effect until a new budget is determined.

(d) Allocation of Annual Assessments Among Lots. The operating budget of the Association shall be assessed against all Owners and Lots in the Property in an equal amount per Lot.

Section 4. Special Assessments.

(a) Special Assessments. In addition to annual assessments, the Board may levy at any time a special assessment for the purpose of defraying the cost of any construction, repair or replacement of any improvement on the Common Property or Areas of Common Responsibility, or on any easement benefiting the Association, for the purpose of covering any budget deficits of the

Association, or for any other purpose deemed desirable or appropriate by the Board; provided, however, that any such special assessment shall have the approval of a majority of the votes of the Members of each class who are in attendance and voting in person or by proxy at a meeting duly called for said purpose.

(b) Individual Assessment. The Board may levy an individual assessment against any Owner and that Owner's Lot and any Dwelling Unit located thereon in order to cover costs incurred by the Association due to that Owner's failure to maintain its Lot or Dwelling Unit pursuant to the standards set forth in this Declaration, or to reimburse the Association for loss or damage to the Association or to any Common Property, Area of Common Responsibility or easement area caused by that Owner or his lessee, agent, contractor or guest, and not covered by insurance, or for any other purpose expressly permitted by this Declaration.

Section 5. Commencement Dates; Start-Up Assessment; Initial Annual Assessment; Due Dates. Annual assessments on the Lots in the Property shall commence upon the closing of the first Lot in the Property with a fully constructed Dwelling Unit thereon, to a bona fide third party purchaser. In the event the Declarant sells any vacant Lot to the Builder for the purpose of commencing or completing the Initial Improvement of such Lot by constructing a Dwelling Unit, any annual assessment, special assessment, or other assessment provided for herein shall commence when such Builder closes on the sale of the Dwelling Unit and Lot to a bona-fide third party purchaser. The annual assessment for the Property for the calendar year 2005 shall be Two Thousand Fifty Two and 04/100 Dollars ($2,052.04) per Lot. At the closing of the sale of each Lot and Dwelling Unit in the Property by Declarant and/or Builder to the first purchaser, the purchaser shall pay to the Association (i) a one time Start-Up Assessment in the amount of Five Hundred Thirteen Dollars ($513.00), and (ii) the entire annual assessment for the calendar year of closing, prorated on a per diem basis from the date of closing through the end of that calendar year. Thereafter, annual assessments shall be due, in advance, on or before the commencement of the Association fiscal year for which imposed; but the Board may elect to collect annual assessments in monthly, quarterly or semi-annual installments. In the event of such deferred payments, the Board may but shall not be required to charge a uniform, lawful rate of interest on the unpaid balance. The Board may accelerate the balance of any annual assessment upon default in the payment of any installment thereon. Annual assessments which commence to accrue as to any Lot and Dwelling Unit other than on the first day of the year shall be prorated for the balance of that year. After the one time Start-Up Assessment has been paid as to a Lot and Dwelling Unit in the Property, subsequent purchasers of said Lot and Dwelling Unit shall not be required to pay said Start-Up Assessment.

The annual assessment for each Additional Property shall commence upon the closing of the first sale by Declarant or Builder of any Lot improved with a Dwelling Unit in the Additional Property to a bona fide third party purchaser. The initial annual assessment for the Lots in each Additional Property shall be the same as the then current annual assessment for the remainder of the Property, or as otherwise set forth in the relevant Supplemental Declaration.

Section 6. Certificate. Upon request, the Association shall furnish to any Owner a certificate setting forth whether required assessments have been paid. Such certificate shall be conclusive evidence in favor of third parties relying thereon of the payment of any assessment therein stated to have been paid.

Section 7. Subordination. The assessment lien shall be subordinate to the lien of any mortgage. Any mortgagee which obtains title to a Lot by foreclosure of a mortgage, or by voluntary conveyance in lieu of such foreclosure, shall not be liable for the uncollected assessments or interest, late charges or collection costs pertaining to such Lot or chargeable to the former Owner thereof which became due prior to the acquisition of title by said mortgagee. Such unpaid amounts shall be deemed a Common Expense collectible from all Owners, including the acquiring mortgagee, on a pro-rata basis.

Any such transfer to or by a mortgagee shall not relieve the transferee of responsibility nor the Lot from the lien for assessments thereafter falling due.

Section 8. No Funding by Declarant; Shortfall Funding by Builder. Notwithstanding anything contained in this Declaration to the contrary, Declarant shall not be obligated to pay any annual or special assessment as to any Lot owned by it or any shortfall in Common Expense actually incurred over and above the income derived from annual, special and individual assessments collectible from the Class "A" Members. The Builder may elect to pay the Common Expenses actually incurred over and above the income derived from annual, special and individual assessments collectible from the Class"A' Members ("Shortfalls") in lieu of annual and special assessments. For purposes of this subsidy arrangement, Builder need not subsidize or pay replacement reserves or capital expenditures. Builder, at its option, at any time, by written notice delivered to the Association and Declarant, may elect to abandon the subsidy approach and commence payment of the assessments thereafter falling due for the Lots then owned by the Builder. Builder shall remain responsible for all Shortfalls to the date of such notice, or until such time that it ceases to maintain voting control of the Association, whichever occurs first. Declarant shall never be obligated to pay any individual assessment or cover any Shortfalls.

## ARTICLE IX

## MAINTENANCE OBLIGATION OF ASSOCIATION

Section 1. Common Property. The Association shall at all times maintain, repair and replace at its expense all Common Areas (including all improvements placed thereon) and all Areas of Common Responsibility, in good condition and repair. The Association's duties shall commence upon the completion of any Improvements upon the Property, irrespective of which entity holds title thereto, and shall include the management, operation, maintenance, repair, servicing, replacement, and renewal of all Improvements, equipment, and tangible personal property installed by Declarant as part of the Common Property. Without limiting the generality of the foregoing, the Association shall assume any and all of the Declarant's responsibilities to the County and the State and their respective governmental and quasi-governmental subdivisions and similar entities with respect to the Common Property and shall indemnify and hold Declarant harmless.

Section 2. Association Obligations. The Association is responsible for the following matters relating to the Initial Improvements located on the Lots and relating to Improvements made to the Buildings and the Dwelling Units by the Declarant, Builder or the Association:

(a) Exterior Building Surfaces: The Association shall, from time to time as deemed reasonably appropriate and necessary by the Board of Directors, in the Board of Directors' sole and absolute discretion, maintain and repair and replace the Exterior Building Surface (except as set forth in Article X, Section 1, (c) and (e)), including painting the exterior, surfaces, paintable walls of each Building, repairing and replacing all portions of the siding of each Building, maintaining, repairing and replacing the Roof, gutters and downspouts of each Building and periodically cleaning the exterior portions of the Building. The Association shall undertake this responsibility to assure uniformity in exterior appearance of the Buildings. The cost of such maintenance, cleaning, painting, repairs and replacements shall be paid for from reserves established by the Association which shall be assessed and collected as part of the Annual Assessment.

(b) Fences and Sidewalks: The Association shall, from time to time as deemed reasonably appropriate and necessary by the Board of Directors, in the Board of Directors' sole and absolute discretion, repair and replace fences and sidewalks (but not walkways, driveways or patios) located on or within a Lot. The Association shall undertake this responsibility to assure uniformity in exterior appearance of the Buildings. The cost of such repairs shall be a Lot Assessment assessed equally among all owners of the Building being repaired.

(c) Secondary Wiring: The Association shall, from time to time as deemed reasonably appropriate and necessary by the Board of Directors, in the Board of Directors' sole and absolute discretion, maintain, repair and replace all secondary wiring to the Building(s) from the transformer and also maintain meter boxes to the point of attachment to a Building. The cost of such maintenance, repairs and replacements shall be a Lot Assessment assessed equally among all Owners of the Building being repaired.

(d) Incidental Damage: The Association shall also be responsible for repairing all incidental damage caused to a Dwelling Unit by reason of the repairs and replacements accomplished pursuant to the provisions of Articles IX, Section 2 above, (a) through (c) above. The Cost of such repairs and replacement shall be assessed equally among all of the Owners of the Building being repaired.

(e) Right to Repair: Notwithstanding the terms and conditions of this Article IX, Section 2(a) through (d) above, if any Lot, Building or Dwelling Unit is damaged or destroyed as a result of the negligence, misuse, error, act or the failure to act by an Owner or any of his guests, tenants, invitees, agents, employees, or family members, the Association may, in its sole and absolute discretion, either (i) repair the Lot, Building or Dwelling Unit, with the cost of such repairs being the sole responsibility of that Owner as a Lot Assessment, payable by the responsible Owner immediately upon receipt of a written invoice or statement or (ii) provide written notice to the Owner to repair the affected Lot, Building or Dwelling Unit, in which case the Owner shall immediately and at such Owner's sole cost and expense, perform exactly such repairs to the Lot, Building or Dwelling Unit as are required by the Association

Section 3. Sanitary Sewer Facilities. A sanitary sewer pump station and facilities related to the operation and use thereof (the "Sanitary Sewer Facilities") shall be located at various locations within the Property, including portions thereof on or under one or more of the Lots. Until such time as the Association shall convey or dedicate the same to a governmental entity or utility company, the Sanitary Sewer Facilities, wherever located, shall at all times be owned by the Association, and the Association shall be obligated to maintain, repair and replace the same at its expense. The Association shall also be obligated to pay all costs and expenses of operating the Sanitary Sewer Facilities.

Section 4. Lawn and Landscape Maintenance. The Association shall maintain lawn areas, shrubbery, hedges, and plant materials on the Lots, including mowing, edging, irrigating and fertilizing, and landscaped areas on the Lots as originally installed by the Declarant, including weeding, trimming and irrigating. Subject to the prior approval of the ARB, Lot Owners may install landscaping other than lawn anywhere on their respective Lots that does not unreasonably interfere with the Association's lawn maintenance obligations, or the rights of other Lot Owners, subject to Article VII, above. No Lot Owner shall make any modification or alteration to the lawn or landscaped areas on the Common Area. The Declarant may install a common irrigation system serving the Common Area and the Lots, including pumps, water distribution lines, sprinkler heads and other related facilities (the "Irrigation System"), on and under the common Areas and the Lots, and shall operate, maintain, repair and replace any such Irrigation System. No Owner may make any alterations, modifications or other changes to the Irrigation System. Each Lot Owner shall be responsible to the Association for any damage or injury to the Irrigation System due to the negligence or intentional act or omission of the Lot Owner or any family member, tenant, guest or invitee of such Owner.

Section 5. Surface Water Management System. A Common Surface Water Management System and facilities therefor (the "SWMS") has been constructed throughout the Property, including on and under the Common Areas and the Lots, in accordance with the Permit issued by the District. The Association shall be obligated to maintain, repair and replace the SWMS in accordance with the requirements of the Permit and the District. The District has the right to take enforcement measures, including a civil action for injunction and/or penalties, against the Association to compel it to correct any

outstanding problems with the SWMS. No amendment to this Declaration affecting the SWMS, or the operation and maintenance thereof, shall be valid or enforceable without the prior written consent of the District. In the event the Association shall cease to exist, whether by dissolution or otherwise, the Lot Owners shall be jointly and severally responsible for the operation and maintenance of the SWMS in accordance with the requirements of the Permit, unless and until an alternate entity assumes responsibility as set forth in Article XIII of the Articles. It is the responsibility of the Association to enforce, or to take such appropriate action as may be necessary to cure violations of, the routine maintenance and non-interference covenants of the SWMS of the Owners under this Declaration, and, when appropriate, to levy assessments therefor. Maintenance of the SWMS shall include the exercise of practices which allow the system to provide drainage, water storage, conveyance and other surface water management capabilities as permitted by the District. Any repair or reconstruction of the SWMS shall be as originally permitted or, if modified, as approved by the District.

Section 6. Others. Where reasonably possible, the Association shall also maintain the vegetation and any landscaping upon areas that are not within the Property but abut same and are owned by a utility or governmental authority, so as to enhance the appearance of the Property, such as swale areas within the right-of-way of abutting public streets or road and areas within drainage rights-of-way.

Section 7. Street Lighting. The Association shall have the obligation for operation, maintenance, repair and replacement of any street lighting facilities owned by the Association, if any, from the date of recording this Declaration or from the installation of the street lighting, whichever occurs first. In the event the Declarant, in its sole discretion, elects to install such street lighting, the Declarant shall be entitled to all rebates or refunds of the installation charges. The Association hereby assigns any such rebates or refunds to the Declarant, and agrees to forthwith pay the same to the Declarant if received by the Association.

Section 8. Right of Entry to Lot by Association. Whenever it is necessary to enter a Lot for the purpose of inspection, including inspection to ascertain an Owner's compliance with the provisions of this Declaration, or for performance of any of the maintenance, alteration or repair obligations of the Association as set forth in this Article IX or elsewhere in this Declaration, the Association shall have the irrevocable right to access onto the Lot and an easement over, under, across and upon the Lot for such purposes, and the Owner thereof shall permit an authorized agent or contractor of the Association to go upon the Lot, provided that such entry shall be made only at reasonable times and with reasonable advance notice. In the case of emergency such as, but not limited to, fire or hurricane, entry may be made without notice or permission. Each Owner does hereby appoint the Association as its agent for the purposes herein provided and agrees that the Association shall not be liable for any alleged property damage or theft caused or occurring on account of any entry.

## ARTICLE X

## MAINTENANCE OBLIGATIONS OF LOT OWNERS

Section 1. Owner's Obligations. Each Owner is responsible for maintaining and repairing everything on the Lot, including but not limited to, the Dwelling Unit and any other improvements, except for the items which the Association is required to maintain, as set forth herein. Owner's responsibilities shall include, but shall not be limited to, following matters relating to his or her Dwelling Unit and Lot:

(a) Each Owner shall maintain, repair and replace, at its sole cost and expense, all interior portions of its Dwelling Unit contributing to the support of the Building, which portions shall include but not be limited to load-bearing columns and load-bearing walls. Notwithstanding the foregoing, the Association reserves the right but no obligation, in its sole and

absolute discretion, if an Owner fails to do so, to make repairs and replacements of those interior portions of a Building contributing to the support of the Building.

(b) In accordance with the terms and conditions of Article IX, Section 1(a) the Association is responsible for painting the Buildings, as deemed reasonably appropriate and necessary by the Board of Directors. If any Owner desires to paint all or a portion of the exterior of its Dwelling Unit, then the Owner shall be subject to the terms and conditions of Article VII.

(c) Each Owner shall maintain (including periodic cleaning), repair and replace at its sole cost and expense, all windows, screens, doors (including sliding glass doors) and garage doors located on or attached to its Dwelling Unit and to maintain repair and replace concrete walkways, driveways, patios and fences located on any portion of its Lot.

(d) Each Owner shall maintain, repair and replace at its sole cost and expense, all interior portions of the Dwelling Unit (including without limitation carpeting, electrical fixtures and appliances in the Dwelling Units, non-supporting walls and partitions, all contents of the Dwelling Units and built-in cabinets in the Dwelling Units), together with water heaters, air handlers, air compressors and the air conditioning and heating unit which services the Dwelling Unit. Notwithstanding the foregoing, the Association reserves the right but no obligation, in its sole and absolute discretion, if an Owner fails to do so, to make repairs and replacements of those interior portions of a Building contributing to the support of the Building.

(e) If an Owner purchases a Dwelling Unit with a screen enclosed patio or is thereafter permitted by the ARB to enclose the patio, then the Owner shall be responsible, at its sole cost and expense, for the maintenance, repair and replacement of the screen enclosed patio and all components of the patio (excluding the roof).

(f) Each Owner shall maintain, repair and replace at its sole cost and expense, all conduits, ducts, plumbing, wiring, and other facilities for the furnishing of utility services to the Dwelling Unit and/or the security alarm system and fire alarm serving the Dwelling Unit, whether such conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services, security alarm system and fire alarm are located within the Dwelling Unit or within the Building where the Dwelling Unit is located. Provided, however, Owners shall be responsible for the maintenance, repair and replacement, if applicable, of water and sanitary sewer lateral pipes servicing their Dwelling Unit, which laterals extend from the applicable water and sewer main to the Dwelling Units, notwithstanding that a portion of such lateral may be located within the Common Area. Notwithstanding the foregoing, the Association reserves the right but no obligation, in its sole discretion, if an Owner fails to do so, to make repairs and replacements of those interior portions of a Building contributing to the support of the Building.

(g) Each Owner shall replace, at its sole cost and expense, light bulbs located on the front entrance and back entrance of the Dwelling Unit and door bell light bulbs as they burn out, using a type and model of light bulb substantially similar to the light bulbs initially installed by the Declarant or otherwise approved in advance by the ARB.

(h) In addition to other specified maintenance required herein, each Owner shall keep all parts of his Lot, including the Dwelling Unit, clean and free of debris, at such Owner's sole cost and expense and shall be responsible, at such Owner's sole cost and expense, for any desired pest and/or nuisance control in and around the Dwelling Unit.

(i) All Owner maintenance, repair and replacement obligations shall (i) be done without disturbing the rights of any other Owners; (ii) be performed by each Owner at regular intervals as shall be necessary to keep the Lot and the Dwelling Unit in an attractive condition and in

substantially the same condition and appearance as existed at the time of completion of construction; subject to normal wear and tear that can not be avoided by normal maintenance; and (iii) shall be of a design, quality specification and décor consistent with the Improvements located on the Property.

(j) Each Owner shall promptly report to the Association any defect or need for repairs or replacements for which the Association is responsible.

(k) Each Owner shall promptly perform any maintenance or repair requested by the Association. If an Owner fails to maintain his Lot and his Dwelling Unit as required herein or to perform any other maintenance required hereunder, the Association, after ten (10) days written notice to the Owner and with the approval of the majority of the Board of Directors, shall have the right to enter upon such Lot to correct, repair, restore, paint, maintain, and landscape any part of such Lot or Dwelling Unit. Such entry shall not be a trespass. the cost of such repairs or maintenance shall be a Lot Assessment, payable by the responsible Owner immediately upon receipt of a written invoice or statement therefore.

Section 2. Assessment of Cost. The cost of any work performed by or at the request of the Association pursuant to Section 1 shall be assessed as an individual assessment against the Owner of the Lot upon which such work is done.

Section 3. Access. In order to perform the repairs or maintenance authorized by this Article, the agents or employees of the Association may enter upon any Lot and the exterior of any improvement thereon during reasonable hours on any day except Sundays and holidays, except that in an emergency situation, as determined by the Board, entry may be made at any time.

## ARTICLE XI

## BUILDING AND USE COVENANTS

The Property shall be subject to the following covenants and restrictions which shall bind each Owner and Lot:

Section 1. Land Use. The use of a Dwelling Unit or of the Common Areas by a Member or other occupant shall be subject to the rules, regulations and provisions of this Declaration, the Articles and Bylaws and the Rules and Regulations of the Board of Directors. A Dwelling Unit shall be used only for residential purposes for immediate members of a single family and their guests and invitees.

Section 2. Building Type. No building shall be erected, altered, placed or permitted to remain on any Lot other than the Dwelling Unit of the type originally constructed by Declarant and/or Builder.

Section 3. Condition of Lot. All garbage cans, trash containers, bicycles, and other personal property shall be kept, stored and placed in an area not visible from outside the Lot. Each Owner shall be responsible for depositing his garbage and trash in appropriate containers for pickup. All Lots shall be kept in a clean and sanitary manner and no rubbish, refuse or garbage allowed to accumulate, or any fire hazard allowed to exist. No rubbish containers, bags or other receptacles shall be allowed outside a Dwelling Unit except on a designated collection day. In the event a Lot Owner shall fail to keep his Lot in a clean and sanitary manner after ten (10) days' notice from the Association, the Association may, but shall not be required to, enter onto the Lot and perform such maintenance or repair as may reasonably be necessary to keep the Lot generally consistent with the condition of the other Lots, and the Lot Owner shall indemnify the Association for the reasonable cost of such maintenance or repair work.

Section 4. Temporary and Accessory Structures. No accessory building or structure of a temporary character, or trailer, tent, mobile home, or recreational vehicle shall be permitted on any Lot or Common Areas at any time or used as living quarters or for storage at any time, either temporarily or permanently, except as permitted by the ARB. No gas tank, gas container, or gas cylinder serving a Dwelling Unit shall be permitted to be placed on or about the outside of any Dwelling Unit or any ancillary building, and all gas tanks, gas containers and gas cylinders shall be installed underground in every instance where gas is used. In the alternative, gas containers may be placed above ground if enclosed on all sides by a decorative screen approved by the ARB.

Section 5. Exterior Appearance and Landscaping. The paint, coating, stain, and other exterior finishing colors on all buildings may be maintained by the Association as set forth herein, as originally installed by the Declarant, without prior approval of the ARB. Prior approval by the ARB shall be necessary before any such exterior finish color is changed. Furthermore, prior approval shall be required if the Association or any Owner wishes to paint, varnish, stain or make any application to exterior trellises or wood treatment, if any. The landscaping, including, without limitation, the trees, shrubs, lawns, flower beds, walkways, and ground elevations, shall be maintained as originally installed by Declarant, unless the prior approval for any substantial change is obtained from the Association and the ARB. Neither aluminum foil, paper, nor anything which the ARB deems objectionable, may be placed on windows or glass doors. No Owner may place any furniture, equipment or objects of any kind or construct any structures, slabs or porches beyond the limits of any Building or patio wall or place any objects such as bicycles, toys, barbecues, etc., at the front of the house or on rear patios unless concealed from the view of the road frontage and other Dwelling Units, provided, however, that customary outdoor furniture is permitted. Barbeque grilling in the front yard or driveways of any Dwelling unit is specifically prohibited.

Section 6. Nuisance; Compliance with Laws. No nuisance or activity or use shall be allowed upon any Lot which is a source of annoyance to other residents Lots by the residents thereof, or interferes with the peaceful possession and proper use and enjoyment of the Lots by the residents thereof, nor shall any improper, unsightly, offensive or unlawful use be made of any Lot, Dwelling Unit or the Common Property, and all laws and regulations of applicable governmental bodies shall be strictly observed. The Property shall be used, enjoyed and occupied in such manner as not to cause or produce any of the following effects discernible outside any Dwelling Unit: noise or sound that is objectionable because of its volume, duration, beat, frequency or shrillness; smoke; noxious, toxic or corrosive fumes or gases; obnoxious odors; dust, dirt or fly ash; unusual fire or explosive hazards; vibration; or interference with normal television, radio or other telecommunication reception by other Owners.

Section 7. Rules and Regulations. Reasonable rules and regulations may be promulgated by the Board, after notice and hearing, as to the use and enjoyment of the Property and shall be observed by the Owners and occupants thereof. Such rules and regulations may involve such matters as air conditioning units, signs, mailboxes, temporary structures, noisy mufflers or other nuisances, garbage and trash disposal, parking, traffic, state of repair of vehicles, tree removal, pets, game and play structures and devices, swimming pools, television and telecommunications devices and antennae, driveways, walkways, sight distances at intersections, garages, and fences. These matters are set out by way of illustration only and shall not be construed to limit the authority of the Board to promulgate and enforce reasonable rules and regulations. Such rules and regulations may augment or clarify the terms of this Declaration or any term, covenant or restriction herein contained.

Section 8. Animals. Birds, fish, dogs, cats, reptiles, and such animals generally recognized as household pets (collectively, "Animals") may be kept as pets only, and shall not be held or offered for sale or maintained or bred for any commercial use; provided, however, that no more than two (2) household pets (to include dogs, cats and other animals generally recognized as household pets), each of which may be no more than one hundred (100) pounds in weight at maturity, may be kept on any Lot at any one time. The keeping of a dog or other domestic pet is not a right of an Owner, but is a conditional

license. This conditional license is subject to termination at any time by the Association upon a finding that a dog or other pet is vicious, is annoying to other residents, or has in any way become a nuisance. Animals shall be sheltered inside Dwellings. No separate or exterior shelter for Animals shall be permitted. All pets shall be kept on a leash and may be walked outside the Owner's Lot only on areas designated for pets by the Board of Directors, if any. The person in control of a pet shall be responsible for removing and disposing of pet excrement from the Common Area and into an approved trash receptacle. The Owner of a Lot in which a pet is kept assumes liability for all damage to persons or property caused by the pet or resulting from its presence on the Property. The Board of Directors of the Association shall have the authority to adopt reasonable rules and policies regulating the keeping of pets within the Property not inconsistent with the provisions of this Section. Any violation of this Section or the rules of the Association concerning the keeping of pets shall constitute a nuisance and the Association shall have the right to terminate the conditional license.

Section 9. Window Covering. No aluminum foil or other reflective substance or material, or sheets, blankets or similar items, shall be placed on any window or any glass of a dwelling located on any Lot except as may be approved for energy conservation purposes and approved by the ARB. All blinds, shades, curtains and other window coverings shall appear white from the exterior of the Dwelling Unit.

Section 10. Parking.

(a) Each Dwelling Unit is allocated one garage and driveway for its exclusive parking use ("Exclusive Parking Area"). No other Owner, resident, guest, licensee, or another person shall park in a parking area reserved or designated as an Owner's Exclusive Parking Area.

(b) All parking within the Property shall be in accordance with rules and regulations adopted from time to time by the Association. All vehicles on the Property must be operational, in good repair, must bear a current license and registration tag, as required pursuant to state law and must be in a good, clean and attractive condition. Guest spaces will be located within the Common Property and Owners may not park in guest spaces. No street parking is permitted at any time, and the Association reserves the right to tow vehicles, at the Owner's expense, for any vehicle parked in the street. No commercial vehicle, meaning any car, truck or van with signage or lettering on it, or with equipment affixed to it, or used in a trade or business, may remain parked on a driveway or in any guest space overnight. No commercial vehicle shall be parked in any parking space except with the written consent of the Board of Directors, except such temporary parking spaces provided for such purpose as may be necessary to effectuate deliveries to the Property, the Association, Owners, or residents. All deliveries must be scheduled through the Association's property manager. No jet skis, personal water craft, boats, boat or utility trailers, campers, recreational vehicles or commercial vehicles may be parked or stored anywhere on the Property, except wholly within an Owner's garage. Motorcycles may be parked on the Common Property only with the written consent of the Board of Directors. All garage doors must remain in the down and closed position except when vehicles are being parked or removed from the garages or when an Owner is washing his or her vehicle in the driveway of a Dwelling Unit.

(c) Any vehicle or recreational equipment parked in violation of these or other regulations contained herein or in the rules and regulations adopted by the Association may be towed by the Association at the sole expense of the owner of such vehicle or recreational equipment if it remains in violation of the terms and conditions of this Declaration following notice by the Association. The Association shall not be liable to the owner of such vehicle or recreational equipment for trespass, conversion, damages, or otherwise, nor guilty of any criminal act by reason of such towing, and neither its removal nor failure of the owner of such vehicle or recreational equipment to receive any notice of said violation shall be grounds for relief of any kind.

(d) By acceptance of a deed to a Lot, each Owner acknowledges and agrees that any parking space may be relocated at any time, and from time to time, by the Declarant or the Board of Directors to comply with applicable Federal, State and local laws and regulations regarding or affecting handicap accessibility, including without limitation the Fair Housing Act and the Americans with Disabilities Act.

Section 11. Outdoor Drying. No outdoor clothes drying shall be allowed on any Lot unless the same is completely shielded from view off the Lot.

Section 12. Signs. No signs, advertisements, billboards, solicitation or advertising structures or materials of any kind shall be displayed or placed upon any Lot without the prior written approval of the ARB; provided, however, street numbers and name signs on Lots shall be permitted without prior approval. No signs advertising a Dwelling Unit for sale or lease shall be placed upon any Lot or in the windows of any Dwelling Unit. No Declarant or the Association may enter upon any Lot and remove and destroy any sign which violates this section. This section shall not apply to Declarant or to any residential builder doing business in the Property provided that any such builder first obtains Declarant's written approval of any such structures or materials prior to installing same, such approval to be granted or denied by Declarant in Declarant's sole discretion.

Section 13. Air Conditioning Equipment. No air conditioning equipment other than compressor units may be visible on the exterior of any Dwelling unless previously approved by the ARB, which approval may be based on the adequacy of screening of such equipment.

Section 14. Drainage. Unless first approved by the ARB and the District, no Owner other than the Declarant may obstruct, alter or in any way modify the method and/or structures of drainage utilized or installed by the Declarant or the Association from, on or across any Lot, the Common Area or any easement area; nor shall any structure or material be erected, placed or maintained which shall in any way obstruct such drainage devices or facilities or impede their efficient operation. No elevation changes shall be permitted on any Lot which materially adversely affect the drainage on or to neighboring Lots or the Common Areas. In the event of a violation of this Section on a Lot, and such violation continues uncured for a period of thirty (30) days after notice from the Association to the Owner of such Lot, the Association shall have the right and authority to enter onto the Lot and undertake such maintenance, repair or replacement as shall, in the Association's determination, be reasonably necessary to cure the violation. The Lot Owner shall indemnify the Association for the reasonable cost of such maintenance, repair or replacement work.

Section 15. Antennas; Communication and Current Transmission Lines. Except as may be permitted by federal law, no communications towers, poles, antennas, aerials, satellite dishes or appurtenances may be erected, constructed, or maintained on any Lot or Building. The Association shall not prohibit the installation or maintenance of a satellite communication dish antenna no greater than thirty six (36) inches in diameter as permitted by federal law, but the Association shall have the authority to promulgate reasonable rules and regulations, including specifications, relating to the installation and maintenance thereof, including a regulation that installation of any such antenna shall be done so as to not be visible from any street within the Property. Except as may be installed by the Declarant or as may be permitted by the ARB, no lines, wires, or other devices for communication or transmission of current shall be placed on any portion of the Property outside of a dwelling structure. In no event, however, shall lines or wires for communication or transmission of current be constructed, placed, or permitted to be placed within the Common Areas unless the same shall be installed by the Association for the common use of all Lot Owners, and all such lines and wires shall be protected cable and any which are not located in buildings shall be installed and maintained underground. Any line or wire installations permitted on any Lot by the ARB pursuant to this Section shall be protected cable and shall only be installed underground.

Section 16. Screened Enclosures. Except for screened enclosures installed or constructed by the Declarant, installation of a screened enclosure over or around any patio, porch or similar outdoor part of the improvements on any Lot, of screening or other enclosure around any portion of the front entry way of any building on any Lot, or of a screened or storm door over the front entry door of a building on any Lot shall be considered an improvement to or alteration of the Lot, and must be approved in advance by the ARB pursuant to Article VII above. All such screened enclosures or storm doors must meet all minimum building code and other governmental requirements applicable thereto, and the Lot Owner shall obtain all required permits therefor. No screened enclosure may be constructed in any designated building setback area on any Lot.

Section 17. Residential Use. The Lots shall only be used for residential purposes, and may not be occupied by more than one (1) family at any one time. For the purposes of this Section, a "single family" shall mean any two or more persons each of whom is related to all the others by blood or marriage, or any two or more persons not related by blood or marriage who are occupying the Lot and operating the property as a single household unit. The Association shall have the authority to promulgate further rules and regulations defining what constitutes a single family not inconsistent with this Section. No Lot or dwelling may be subdivided and no person may rent or lease less than the whole Lot or dwelling. Any use of a Lot that is permitted by applicable zoning requirements shall not constitute a violation of this Section.

Section 18. Fences and Walls. Except for walls constructed by Declarant, there shall be no fence or wall permitted on any Lot.

Section 19. Yard Accessories and Play Structures. The use of decorative items, including, but not limited to, statues, gates, rocks, planters, bird baths and other ornamental accessories are prohibited, unless the ARB has given written permission for their installation prior to use, installation or construction.

Section 20. Leasing. Lot Owners may lease their Lots, subject to the provisions of this Section. All leases shall be in writing. No lease on any Lot may be made for a term of less than seven (7) months, and no Lot Owner may commence more than two (2) leases during any consecutive twelve-month period. Within fifteen (15) days after the commencement of any lease of a Lot, the Lot Owner shall provide the Association (a) the mailing address for the Lot Owner; (b) the names of all persons to be residing on the Lot during the lease term; and (c) the commencement date and expiration date of the lease. All tenants, and their guests and invitees, shall be subject to the terms and provisions of the Articles and the By-Laws, and the duly adopted rules and regulations of the Association. In the event any tenant or other person using the Lot or the Common Areas as the guest or invitee of the Lot Owner or the tenant shall violate any of such restrictions, rules or regulations, and such violation shall continue for a period of seven (7) days after written notice from the Association to the Lot Owner, and the tenant, the Association shall be permitted to demand the immediate removal of the tenant from the Lot, and may thereafter proceed with legal action against the Lot Owner and the tenant for eviction of the tenant from the Lot.

Section 21. Owner's Responsibility for Acts of Others. The Lot Owner shall be responsible to the Association for the acts and omissions, whether negligent or willful, of any persons using the Lot or the Common Areas, whether that person is the tenant of the Lot Owner or is the guest or invitee of the Lot Owner or any tenant of the Lot Owner. The Lot Owner shall indemnify and hold the Association harmless from and against any damage, injury, judgment, expense, liability or cause of action of any kind, or any claim or demand therefor, resulting from the act or omission, whether negligent or willful, or any such person, to the extent that such damage or injury, or claim or demand therefor, shall exceed proceeds of insurance policies actually received by the Association.

Section 22. Collection. All garbage and refuse shall be placed for pickup not earlier than the evening preceding pickup, and all containers for garbage and refuse shall be returned no later than the

evening of pickup to their normal, hidden location. Except for normal construction debris on any Lot during the course of construction of the Dwelling, no weeds, garbage, refuse or debris of any kind shall be placed or permitted to accumulate upon any portion of the Property.

Section 23. Pumping or Draining. The Owner of any Lot which includes or is adjacent to any pond, creek, bay head, or other body of water shall not reduce the depth or size of said body of water by pumping or draining therefrom.

Section 24. Landscaping of Easements. In addition to the easements reserved herein, easements for drainage, installation and maintenance of utilities and for ingress and egress are shown on the recorded plat(s) of the Property. Within these easements no structure, planting or other material may be placed or permitted to remain that will interfere with vehicular traffic or prevent maintenance of utilities located therein. Public utility companies servicing the Property and the Association, and their successors and assigns, shall have a perpetual easement for the installation and maintenance of water lines, sprinkler lines, sanitary sewers, storm drains, gas lines, electric and telephone lines, cables and conduits, including television cables and conduits and such other installations as may be required or necessary to provide maintenance and utility services to the Lots and/or the Common Areas under and through the utility easements as shown on the plat(s). Any damage caused to pavement, driveways, drainage structures, sidewalks, other structures, or landscaping in the installation and maintenance of such utilities shall be promptly restored and repaired by the utility whose installation or maintenance caused the damage. All utilities within the Property, whether in streets, rights-of-way or utility easements, shall be installed and maintained underground, provided, however, that water and sewer treatment facilities and control panels for utilities may be installed and maintained above ground. To the extent that any structure, planting or other material has been placed, installed or constructed within any such easement area that does interfere with vehicular traffic or prevents the maintenance of utilities located therein, the Lot Owner shall be obligated to remove, at his own cost, such structure, planting or other material from the easement area upon the request of the utility company seeking to gain access or perform maintenance, the Declarant or the Association. In the event the Lot Owner shall not timely remove such structure, planting or other material from the easement area, and such failure shall continue for a period of ten (10) days after notice from the Declarant or the Association, the Declarant or the Association may, but shall not be required to, enter onto the Lot and remove such obstructing structure, planting or other material. The Lot Owner shall indemnify the Declarant and the Association for the reasonable cost of such removal.

Section 25. Declarant Reservation. Any provision of this Declaration to the contrary notwithstanding, until Declarant has completed all of the contemplated improvements and closed the sales of all of the Lots, neither the Owners nor the Association shall interfere with the completion of Declarant's planned improvements and the sale of the Lots. Declarant may make such lawful use of the unsold Lots and the Common Property, without charge, as may facilitate such completion and sale, including, but not limited to, maintenance of sales and construction trailers and offices, the showing of the Lots and the display of signs and the use of Lots for vehicular parking. Without limiting the generality of the foregoing, except only when the express provisions of this Declaration prohibit the Declarant from taking a particular action, nothing in this Declaration shall be understood or construed to prevent or prohibit Declarant from any of the following:

(a) Doing on any property owned by it whatever it determines to be necessary or advisable in connection with the completion of the development of the Property, including without limitation, the alteration of its construction plans and designs as Declarant deems advisable in the course of development (all models or sketches showing plans for future development of the Property, as same may be expanded, may be modified by the Declarant at any time and from time to time, without notice); or

(b) Erecting, constructing and maintaining on any property owned or controlled by Declarant such structures as may be reasonably necessary for the conduct of its business of completing said development and establishing the Property as a community and disposing of the same by sale, lease or otherwise; or

(c) Conducting on any property owned or controlled by Declarant, its business of developing, subdividing, grading and constructing improvements in the Property and of disposing of Lots therein by sale, lease or otherwise; or

(d) Determining in its sole discretion the nature of any type of improvements to be initially constructed as part of the Property; or

(e) Maintaining such sign or signs on any property owned or controlled by Declarant as may be necessary or desired in connection with the operation of any Lots owned by Declarant or the sale, lease, marketing or operation of Lots; or

(f) Filing Supplemental Declarations which modify or amend this Declaration, which add or withdraw Additional Property as provided in this Declaration, or otherwise limit or impair the Declarant from effecting any action which may be required of Declarant by the Local Government or any other federal, state or local governmental or quasi-governmental agency in connection with the development and continuing operation of the Property; or

(g) Modifying, changing, re-configuring, removing or otherwise altering any improvements located on the Common Property or utilizing all or portions of the Common Property for construction access or staging (provided that same does not impair existing access or utility services to the Lots); or

(h) Causing utilities to be available to all portions of the Property, including, but not limited, to the granting of easements and rights of way as may be necessary to locate, install and maintain facilities and connections.

Section 26. Conservation Tracts. If any conservation tract is specifically designated as such on any plat of the Property, then, except for those alterations made by Declarant and those additional alterations which may be permitted by applicable governmental authorities and the ARB, there shall be no further clearing, construction, grading or alteration of those tracts.

Section 27. Mailboxes. Community mailboxes may be provided by the U.S. Post Office and individual mailboxes on each Lot shall be prohibited while community mailboxes are utilized by the U.S. Post Office.

Section 28. Security Bars. No exterior security bar system may be installed on any window or door of any Dwelling in the Property.

Section 29. Interior Use of Party Walls.

BY VIRTUE OF ACCEPTING TITLE TO ANY LOT AND DWELLING UNIT CONSTRUCTED THEREON, EACH OWNER SHALL BE ON NOTICE THAT PUNCTURING ANY PARTY WALL SURFACE WILL IMPAIR THE FIRE-WALL FUNCTION OF SUCH STRUCTURE, AND THAT EACH OWNER IS PROHIBITED FROM PUNCTURING, PIERCING OR PERFORATING PARTY WALLS IN ANY MANNER WHATSOEVER.

Section 30. Variances. The Board of Directors of the Association shall have the right and power to grant variances from the provisions of this Article XI and from the Association's rules and regulations for good cause shown, as determined in the reasonable discretion of the Board. No variance granted as aforesaid shall alter, waive or impair the operation or effect of the provisions of this Article XI in any instance in which such variance is not granted.

## ARTICLE XII

## ADDITIONAL COVENANTS AND RESTRICTIONS

No Owner may impose any additional covenants or restrictions on any part of the Property without the prior written approval of Declarant, for so long as Declarant owns any Lots, and thereafter without the prior written approval of the Board.

## ARTICLE XIII

## AMENDMENT

The holders of at least two-thirds (2/3) of the votes in the Association (without regard to class) may change or amend any provision hereof either (1) by executing a written instrument in recordable form setting forth such amendment, or (2) by causing a certified copy of a duly adopted resolution of the Owners to be prepared, and having the same recorded in the Public Records of Hillsborough County. Any proposed amendment may be initiated by Declarant, the Association, or petition signed by ten percent (10%) of the Owners. If a proposed amendment is to be adopted by vote, a written copy of the proposed amendment shall be furnished to each Owner at least thirty (30) days but not more than ninety (90) days prior to the meeting to discuss the proposed amendment. If adopted by vote, the affirmative vote required for adoption shall be two-thirds (2/3) of the votes of the Members (without regard to class) cast in person or by proxy at a meeting duly called, and the recorded certificate shall contain a recitation that notice was given as above set forth and said recitation shall be conclusive as to all parties, and all parties of any nature whatsoever shall have full right to rely upon said recitation in such recorded certificate. The amendment shall be effective upon recordation of the executed amendment, or the certified copy of the duly adopted resolution, among the Public Records of Hillsborough County.

## ARTICLE XIV

## HUD/FHA/VA AND DISTRICT APPROVAL RIGHTS

Notwithstanding anything in this Declaration to the contrary, as long as there exists a Class "B" membership, if any one or more of HUD, FHA or VA requires approval or consent by it or them to annexation of Additional Property, any merger or consolidation involving the Association, the placing of any mortgage lien on the Common Property, dedication to the public of any Common Property, any amendment of this Declaration, or dissolution of the Association, by any one or more of said agencies as a condition of making, insuring or purchasing loans on Dwellings in the Property, and any such loan has been approved, insured or purchased by the applicable agency at the time of the proposed annexation, merger, consolidation, mortgaging, dedication, amendment or dissolution, then the required consent or approval shall be obtained. In addition, any amendment to this Declaration of Covenants, Conditions and Restrictions which alters the Surface Water Management System beyond maintenance in its original condition, including the surface water management portions of the Common Property, must have the prior approval of the District. This Declaration may not be amended without the prior written consent of the District if such amendment would change any of the provisions of this Declaration governing or affecting the operation, maintenance or repair of the Surface Water Management System for the Property.

## ARTICLE XV

## DURATION AND TERMINATION

This Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by Declarant, the Association and any Owner, and their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded in the public records, after which time this Declaration and each Supplemental Declaration shall be automatically extended for successive periods of ten (10) years unless prior to the commencement of any 10-year extension period an instrument signed by the Owners of eighty percent (80%) of the Lots and agreeing to terminate this Declaration is recorded in the Public Records of Hillsborough County.

## ARTICLE XVI

## ENFORCEMENT

Section 1. Compliance by Owners. Every Owner and all guests, tenants and invitees of any Member, shall comply with the restrictions and covenants set forth herein and any and all rules and regulations which from time to time may be adopted by the Board of Directors of the Association.

Section 2. Enforcement. Failure of an Owner or that Owner's tenants, licensees, invitees and guests to comply with such restrictions, covenants or rules and regulations shall be grounds for immediate action which may include, without limitation, an action to recover sums due for damages, injunctive relief, or any combination thereof. The Association shall have the right to suspend the rights of use of the Common Property (except for legal access and utilities) of defaulting Owners. The offending Owner shall be responsible for all costs of enforcement including attorneys' fees actually incurred and court costs. If any person shall violate or attempt to violate this Declaration, it shall be lawful for Declarant, any Owner, or the Association: (a) to prosecute proceedings for the recovery of damages against those so violating or attempting to violate this Declaration; (b) to maintain a proceeding in any court of competent jurisdiction against those so violating or attempting to violate this Declaration, for the purpose of preventing or enjoining all or any such violations or attempted violations; or (c) to maintain a proceeding for any other equitable or legal recourse or remedy available at law or in equity. In addition, whenever there shall have been built or there shall exist on any Lot any structure, thing or condition which violates this Declaration, Declarant or the Association (but not any Owner) shall have the right, but not the obligation, to enter upon the Lot where such violation exists and summarily to abate and remove the same, all at the expense of the Owner of such Lot, which expense shall constitute an individual assessment to be treated and collected as set forth in Article VIII, and such entry and abatement or removal shall not be deemed a trespass or make Declarant or Association, or the agents or employees of either, liable for any damages on account thereof. The remedies contained in this provision shall be cumulative of all other remedies now or hereafter provided by law or this Declaration. The failure of Declarant, the Association, or an Owner to enforce any covenant, restriction, obligation, right, power, privilege or reservation herein contained, however long continued, shall in no event be deemed a waiver of the right to enforce the same thereafter as to the same breach or violation, or as to any other breach or violation occurring prior or subsequent thereto.

The District shall also have the right to enforce, by a proceeding at law or in equity, the provisions of this Declaration which relate to maintenance, operation and repair of the Surface Water Management System.

Section 3. Fines. In addition to all other remedies, and to the maximum extent lawful, in the sole discretion of the Board of Directors of the Association, a fine or fines may be imposed upon an Owner for failure of an Owner or that Owner's tenants, licensees, invitees and guests to comply with any covenant, restriction, rule or regulation, provided the following procedures are adhered to:

(a) Notice. The Association shall notify the Owner of the alleged infraction or infractions. Included in the notice shall be the date and time of a special meeting of the Board of Directors at which time the Owner shall present reasons why a fine(s) should not be imposed. At least six (6) days' notice of such meeting shall be given.

(b) Hearing. The alleged non-compliance shall be presented to the Board of Directors after which the Board of Directors shall hear reasons why a fine(s) should not be imposed. A written decision of the Board of Directors shall be submitted to the Owner by not later than twenty-one (21) days after the Board of Director's meeting. The Owner shall have a right to be represented by counsel and to cross examine witnesses.

(c) Amounts. The Board of Directors (if its or such panel's findings are made against the Owner) may impose special assessments against the Lot owned by the Owner as follows:

(i) For each violation, a fine not exceeding One Hundred Dollars ($100.00).

(ii) For a violation or violations which are of a continuing nature after notice thereof (even if in the first instance), a fine not exceeding One Thousand Dollars ($1,000.00).

(d) Payment and Collection of Fines. Fines shall be treated as an individual assessment subject to the provisions for the collection of individual assessments, and the lien securing same, as set forth elsewhere in this Declaration.

(e) Application of Proceeds. All moneys received from fines shall be allocated as directed by the Board of Directors.

(f) Non-exclusive Remedy. These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; provided, however, any fines paid by the offending Owner shall be deducted from or offset against any damages which the Association may otherwise be entitled to recover by law from such Owner.

(g) CPI. Unless limited by law, specific dollar amounts stated in this Section shall increase from time to time by application of a nationally recognized consumer price index chosen by the Board of Directors, using the date this Declaration is recorded as the base year. In the event no such consumer price index is available, the Board shall choose a reasonable alternative to compute such increases.

## ARTICLE XVII

## DAMAGE OR DESTRUCTION TO COMMON PROPERTY

Damage to or destruction of all or any portion of the Common Property shall be addressed in the following manner, notwithstanding any provision in this Declaration to the contrary:

Section 1. Sufficient Insurance Proceeds. In the event of damage to or destruction of the Common Property, if the insurance proceeds are sufficient to effect total restoration, then the Association shall cause such portions of the Common Property to be repaired and reconstructed substantially as it previously existed.

Section 2. Insufficient Insurance Proceeds. If the insurance proceeds are not sufficient to effect total restoration of the Common Property, then the Association shall cause such portions for the Common Property to be repaired and reconstructed substantially as they previously existed and the difference between the insurance proceeds and the actual cost shall be levied as a special assessment against each of the Owners in accordance with the provisions of Article VIII of this Declaration.

Section 3. Negligence or Willful Misconduct. Each Owner shall be liable to the Association for the cost to repair any damage to the Common Property not fully covered by collected insurance which may be sustained by reason of the negligence or willful misconduct of any Owner or that Owner's tenants, guests or invitees. In addition, the Association shall have the right to charge any Owner for the increase, if any, in the insurance premium attributable to damage caused by such Owner or that Owner's tenants, guests or invitees. The sums due from an Owner hereunder shall be an individual assessment against the Owner and that Owner's Lot and may be collected as provided elsewhere in this Declaration for the collection of individual assessments.

## ARTICLE XVIII

## MORTGAGEE PROTECTION

Section 1. Records and Notices. The Association shall make available to all Owners and to all holders of mortgages on Lots, and to insurers and guarantors of any first mortgage, for inspection, upon request, during normal business hours or under other reasonable circumstances, current copies of this Declaration (with all amendments) and the Articles, Bylaws, rules and regulations, and the books and records of the Association (including the budget). Such persons shall be entitled, upon prior written request, (i) to receive a copy of the Association's financial statement for the immediately preceding fiscal year, (ii) to receive notices of and attend Association meetings, (iii) to receive notice from the Association of an alleged default by any Owner in the performance of such Owner's obligations under this Declaration, the Articles or Bylaws of the Association, which default is not cured within thirty (30) days after the Association learns of such default and to the extent that the mortgagee, insurer and/or guarantor has an interest, by virtue of the mortgage, in the Lot owned by the defaulting Owner, and (iv) to receive notice of any substantial damage or loss to the Common Property.

Section 2. Adverse Events. Any holder, insurer or guarantor of a mortgage on a Lot shall have, if first requested in writing, the right to timely written notice of (i) any condemnation or casualty loss affecting a material portion of the Common Property, (ii) a sixty (60) day delinquency in the payment of the Assessments on a mortgaged Lot, and (iii) the occurrence of a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

Section 3. Taxes and Other Charges. After thirty (30) days written notice to the Association, any holder, insurer or guarantor of a mortgage on a Lot shall have the right to pay, singly or jointly, taxes or other charges that are delinquent and have resulted or may result in a lien against or loss of the Association's title to any portion of the Common Property, and to receive prompt reimbursement from the Association.

Section 4. Insurance Premiums. After thirty (30) days written notice to the Association, any holder, insurer or guarantor of a mortgage on a Lot shall have the right to pay, singly or jointly, any overdue premiums on any hazard insurance policy covering the Common Property or obtain, singly or jointly, new hazard insurance coverage on the Common Property upon the lapse of a policy and, in either case, receive prompt reimbursement from the Association.

## ARTICLE XIX

## GENERAL PROVISIONS

Section 1. Notice. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when personally delivered or mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 2. Enforcement. Without limiting the generality of Article XVIII, enforcement of these covenants and restrictions shall be accomplished by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the Lots to enforce any lien created by these covenants; and failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 3. Interpretation. The Article and Section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions and interpretation or construction. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular, and the masculine, feminine and neuter genders shall each include the others.

Section 4. Severability. Invalidation of any one of these covenants or restrictions or any part, clause or word hereof, or the application thereof in specific circumstances, by judgment or court order shall not affect any other provisions or applications in other circumstances, all of which shall remain in full force and effect.

Section 5. Effective Date. This Declaration shall become effective upon its recordation in the Public Records of the County.

Section 6. Conflict. This Declaration shall take precedence over conflicting provisions in the Articles of Incorporation and By-Laws of the Association and said Articles shall take precedence over the By-Laws and any rules hereinafter promulgated.

Section 7. Cooperation. Each Owner, by acceptance of a deed therefor or other conveyance thereof, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to covenant and agree, to cooperate in, and support, any and all zoning, administrative, governmental and/or quasi-governmental filings, applications, requests, submissions and other actions necessary or desired for development and/or improvement of the Property, including, without limitation, signing any required applications, plats, etc. as the owner of any portion of the Property owned or controlled thereby when necessary or requested.

Section 8. Easements. Should the intended creation of any easement provided for in this Declaration fail by reason of the fact that at the time of creation there may be no grantee in being having the capacity to take and hold such easement, then any such grant of easement deemed not to have been so created shall nevertheless be considered as having been granted directly to the Association as agent for such intended grantees for the purpose of allowing the original party or parties to whom the easements were originally intended to have been granted the benefit of such easement and the Owners hereby designate the Declarant and the Association (or either of them) as their lawful attorney-in-fact to execute any instrument on such Owners' behalf as may hereafter be required or deemed necessary for the purpose of later creating such easement as it was intended to have been created herein. All parties using easements granted in this Declaration shall use reasonable efforts to minimize interference with all other permitted uses of the easements and the property subject thereto and shall restore any damage to such property caused in the exercise of any rights granted in any such easement.

Section 9. No Public Right or Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Common Property to the public, or for any public use.

Section 10. Constructive Notice and Acceptance. Every person who owns, occupies or acquires any right, title, estate or interest in or to any Lot, shall be conclusively deemed to have consented and agreed to every limitation, restriction, easement, reservation, condition, lien and covenant contained herein, whether or not any reference hereto is contained in the instrument by which such person acquired an interest in such Lot.

Section 11. Execution of Documents Required by Local Government. The Declarant's plan for the development of Palm River Townhomes may require from time to time the execution of certain documents required by the Local Government. To the extent that said documents require the joinder of any or all Owners in Palm River Townhomes, each of said Owners, by virtue of his acceptance of a deed to his Lot, does irrevocably give and grant to the Declarant, or any of its officers individually, full power of attorney to execute said documents as his agent and in his place and stead.

## ARTICLE XX

## DISCLAIMERS

Section 1. Disclaimer of Representations or Warranties. EXCEPT AS EXPRESSLY PROVIDED IN THIS DECLARATION, NO REPRESENTATION OR WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, HAS BEEN GIVEN OR MADE BY DECLARANT OR ITS AGENTS OR EMPLOYEES IN CONNECTION WITH THE PROPERTY, ITS PHYSICAL CONDITION, ZONING, COMPLIANCE WITH APPLICABLE LAWS, MERCHANTABILITY, HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR IN CONNECTION WITH THE SUBDIVISION, SALE, OPERATION, MAINTENANCE, COST OF MAINTENANCE, TAXES OR REGULATION THEREOF. IF ANY SUCH WARRANTY CANNOT BE DISCLAIMED, AND AS TO ANY CLAIMS WHICH CAN BE MADE AS TO THE AFORESAID MATTERS, ALL INCIDENTAL AND CONSEQUENTIAL DAMAGES ARISING THEREFROM ARE HEREBY DISCLAIMED.

Section 2. General. Notwithstanding anything contained herein or in the Articles, bylaws and rules and regulations of the Association or any other document governing or binding the Association, Declarant or the Property (collectively, the "constituent documents"), neither the Association nor the Declarant shall be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any Owner, occupant or user of any portion of the Property including, without limitation, residents and their families, agents, employees, contractors, guests or invitees, or for any property of any such persons. Without limiting the generality of the foregoing:

(a) it is the express intent of the constituent documents that the various provisions thereof which are enforceable by the Association or Declarant or which govern the uses of the Property, have been written, and are to be interpreted and enforced, for the sole purpose of enhancing and maintaining the enjoyment of the Property and the value thereof;

(b) the Association is not empowered, nor has been created, to act as an entity which enforces or ensures compliance with the laws of the United States, State of Florida, the City of Lakeland or Hillsborough County or any other jurisdiction, or prevents tortious activities; and

(c) any provisions of the constituent documents setting forth the uses of assessments which relate to health, safety and/or welfare shall be interpreted and applied only as limitations on the uses of assessment funds and not as creating a duty of the Association to protect or

further the health, safety or welfare of any person(s), even if assessment funds are chosen to be used for such reason.

Each Owner (by virtue of its, his or her acceptance of title to its, his or her Lot) and each other person having an interest in or lien upon, or making any use of, any portion of the Property (by virtue of accepting such interest or lien or making such uses) shall be bound by this Article XIX and shall be deemed to have automatically waived any and all rights, claims, demands and causes of action against the Association or Declarant and arising from or connected with any matter for which the liability of the Association or Declarant has been disclaimed in this Article or in this Declaration generally.

As used in this Article XX, the words "Association" and "Declarant" shall each include within their meanings all of the respective directors, officers, committees and board members, employees, agents, contractors (including without limitation management companies), and successors and assigns of each.

[remainder of this page left intentionally blank]

**IN WITNESS WHEREOF**, Declarant has executed this Declaration on the day and year first above written.

Signed, sealed and delivered in the presence of:

Print Name: Kathleen Nicholson

Print Name: Anne Duffy

DECLARANT:

**PALM RIVER, LLC,**
a Florida limited liability company

By: THE RYAN GROUP, LLC,
a Florida limited liability company,
its Managing Member

By: _____
John M. Ryan
Managing Member

STATE OF FLORIDA )
COUNTY OF Hillsborough

The foregoing instrument was acknowledged before me this 25 day of October, 2005 by John M. Ryan, Managing Member of The Ryan Group, LLC, a Florida limited liability company, Managing Member of Palm River, LLC, a Florida limited liability company, on behalf of the companies. He [✓] is personally known to me or [___] has produced _____ as identification.

Name: Kathleen Nicholson
Title: Notary Public
My Commission Expires: May 19, 2009

(NOTARY STAMP)

KATHLEEN NICHOLSON
Notary Public - State of Florida
My Commission Expires May 19, 2009
Commission # DD 430982
Bonded By National Notary Assn.

EXHIBIT "A"

PALM RIVER TOWNHOMES PHASE 1 according to Plat thereof recorded in Plat Book 106, Pages 130 through 138, Public Records of Hillsborough County, Florida, more particularly described as:

LEGAL DESCRIPTION:
A portion of Government Lot 6 and Government Lot 7, Section 21, Township 29 South, Range 19 East, Hillsborough County, Florida, being more particularly described as:

Commence at the Southwest corner of Government Lot 7, said point also being the Southwest corner of the Southeast 1/4 of Section 21, Township 29 South, Range 19 East; thence S.89°45'43"E a distance of 1318.96 feet to the Southwest corner of Government Lot 6; thence N.00°17'11"E a distance of 1012.57 feet to a point on the North boundary of the South 1012.70 feet of the East 1100 feet of Government Lot 7 as surveyed by B.M. Sullivan, said point being the Point of Beginning: thence N.89°48'30"W along said boundary line a distance of 498.66 feet; thence leaving said boundary line N.70°48'03"W., a distance of 155.16 feet to a point of curvature; thence 81.00 feet along the arc of a curve to the right, having a radius of 42.00 feet, delta 110°30'13", chord bearing and distance N.15°32'57"W 69.02 feet; thence N.39°42'10"E., a distance of 128.20 feet to a point of curvature; thence 57.95 feet along the arc of a curve to the right, having a radius of 35.00 feet, delta 94°51'47", chord bearing and distance N.87°08'03"E 51.55 feet; thence S.45°26'03"E., a distance of 24.38 feet; thence N.44°33'57"E., a distance of 10.54 feet; thence S.45°26'03"E., a distance of 21.00 feet; thence S.44°33'57"W., a distance of 10.54 feet; thence S.45°26'03"E., a distance of 82.25 feet; thence N.90°00'00"E., a distance of 110.38 feet; thence N.38°22'46"E., a distance of 61.28 feet; thence S.55°03'03"E., a distance of 80.32 feet; thence N.34°56'57"E., a distance of 29.41 feet; thence N.00°11'31"W., a distance of 123.01 feet; thence S.89°48'29"W., a distance of 18.15 feet; thence N.00°11'31"W., a distance of 25.33 feet; thence N.89°48'29"E., a distance of 18.15 feet; thence N.00°11'31"W., a distance of 91.87 feet to the point of curvature of a non-tangent curve; thence 89.57 feet along the arc of a curve to the right, having a radius of 65.00 feet, delta 78°57'09", chord bearing and distance N.39°28'34"W 82.65 feet; thence S.90°00'00"W., a distance of 24.23 feet; thence N.83°16'39"W., a distance of 46.83 feet to the point of curvature of a non-tangent curve; thence 115.23 feet along the arc of a curve to the left, having a radius of 174.00 feet, delta 37°56'37", chord bearing and distance S.84°28'24"W 113.14 feet; thence S.65°30'06"W., a distance of 61.08 feet; thence S.06°38'18"W., a distance of 15.19 feet; thence S.65°30'06"W., a distance of 28.52 feet to a point of curvature; thence 89.26 feet along the arc of a curve to the right, having a radius of 86.00 feet, delta 59°27'57", chord bearing and distance N.84°45'56"W 85.30 feet to a point of reverse curvature; thence 73.24 feet along the arc of a curve to the left, having a radius of 120.00 feet, delta 34°58'02", chord bearing and distance N.72°30'59"W 72.10 feet; thence S.90°00'00"W, a distance of 84.72 feet; thence N.00°00'00"E, a distance of 82.69 feet; thence N.90°00'00"E, a distance of 91.32 feet to a point of curvature; thence 75.23 feet along the arc of a curve to the left, having a radius of 120.00 feet, delta 35°55'04", chord bearing and distance N.72°02'28"E 74.00 feet to a point of reverse curvature; thence 66.73 feet along the arc of a curve to the right, having a radius of 70.00 feet, delta 54°36'56", chord bearing and distance N.81°23'24"E 64.23 feet; thence N.35°44'30"E., a distance of 35.21 feet; thence N.08°16'11"E., a distance of 22.63 feet; thence S.83°43'49"E., a distance of 37.72 feet; thence N.09°08'35"E., a distance of 116.81 feet; thence N.19°02'50"W., a distance of 75.48 feet; thence N.08°18'47"E., a distance of 42.07 feet to a point of curvature; thence 40.77 feet along the arc of a curve to the right, having a radius of 30.00 feet, delta 77°51'58", chord bearing and distance N.47°14'46"E 37.70 feet; thence N.86°10'45"E., a distance of 54.28 feet to a point of curvature; thence 40.51 feet along the arc of a curve to the right, having a radius of 30.00 feet, delta 77°22'39", chord bearing and distance S.55°07'55"E 37.51 feet; thence S.16°26'36"E., a distance of 41.93 feet; thence S.88°48'47"E., a distance of 26.78 feet; thence S.01°18'54"E., a distance of 13.72 feet; thence S.78°37'47"W., a distance of 29.22 feet; thence S.03°11'42"W., a distance of 54.76 feet; thence S.18°16'02"E., a distance of 34.80 feet; thence S.21°24'07"W., a distance of 61.70 feet; thence S.66°42'50"E., a distance of 74.70 feet; thence N.36°26'48"E., a distance of 240.39 feet; thence N.40°21'33"E., a distance of 42.58 feet; thence N.44°16'19"E., a distance of 172.29 feet; thence N.62°08'34"E., a distance of 22.36 feet; thence N.48°59'17"E., a distance of 50.07 feet; thence N.71°01'23"E., a distance of 34.37 feet; thence N.27°12'15"E., a distance of 14.30 feet; thence N.17°45'49"E., a distance of 58.94 feet; thence N.35°52'41"E., a distance of 143.82 feet; thence N.13°04'28"W., a distance of 42.86 feet; thence N.48°08'02"W., a distance of 59.39 feet; thence N.17°40'02"W., a distance of 6.36 feet; thence N.09°24'48"E., a distance of 46.28 feet; thence N.31°05'48"E., a distance of 137.39 feet to a point on the south right-of-way line of the Tampa By-Pass Canal, Official Records Book 1754, Page 443, Hillsborough County, Florida; thence along said South right-of-way line N.59°37'10"E., a distance of 73.87 feet; thence leaving said South right-of-way line of the Tampa By-Pass Canal S.51°35'38"E., a distance of 56.38 feet; thence S.71°57'58"E., a distance of 86.45 feet; thence N.70°31'18"E., a distance of 75.63 feet; thence N.27°59'06"E., a distance of 58.28 feet; thence S.63°29'19"E., a distance of 95.22 feet; thence N.85°37'02"E., a distance of 97.53 feet; thence N.28°12'01"E., a distance of 65.37 feet; thence N.35°26'18"W., a distance of 27.64 feet; thence N.49°01'53"E., a distance of 35.54 feet; thence N.39°58'48"W., a distance of 68.46 feet; thence N.65°22'41"W., a distance of 20.25 feet; thence N.17°03'67"E., a distance of 15.53 feet; thence S.89°58'03"E., a distance of 74.32 feet; thence S.49°50'35"E., a distance of 73.47 feet; thence N.64°22'45"E., a distance of 28.28 feet; thence N.48°27'40"E., a distance of 77.28 feet; thence N.33°21'12"E., a distance of 46.28 feet; thence N.52°56'20"W., a distance of 25.40 feet; thence N.00°00'08"E., a distance of 11.93 feet to a point on the said South right-of-way line of the Tampa By-Pass Canal; thence along said South right-of-way line S.89°55'35"E a distance of 177.11 feet to a point on the East boundary of the East 1/2 of the West 3/4 of the North 1/2 of said Government Lot 6; thence leaving said South right-of-way line of Tampa By-Pass Canal run S.00°16'07"W along said East boundary a distance of 633.52 feet to the North right-of-way line of Palm River Road ( 60 feet wide right-of-way per Commissioner's Minute Book "I", Page 120); thence S.89°45'10"W along said North right-of-way line a distance of 355.13 feet; thence leaving said North right-of-way line S.00°16'10"W a distance of 30.00 feet; thence S.89°45'10"W a distance of 115.00 feet to a point on the West right-of-way line of 48th Street ( 30 feet wide right-of-way per Plat Book 19, Page 47, Public Records of Hillsborough County, Florida); thence S.00°16'10"W along said West right-of-way line a distance of 649.94 feet; thence leaving said West right-of-way line N.89°45'06"W a distance of 392.01 feet; thence S.17°11'W a distance of 10.00 feet; thence N.89°45'06"W a distance of 88.00 feet to the Southwest corner of the North 1/2 of said Government Lot 6; thence S.00°17'11"W along the West boundary line of said Government Lot 6 a distance of 307.30 feet to the Point of Beginning. LESS ROAD RIGHT OF WAY DEDICATED BY THIS PLAT FOR 48TH STREET, 10TH AVENUE, AND PALM RIVER ROAD.

Containing 25.127 NET ACRES, MORE OR LESS.

EXHIBIT "B"

# ARTICLES OF INCORPORATION
# OF
# PALM RIVER TOWNHOMES HOMEOWNERS ASSOCIATION, INC.

In compliance with the requirements of Florida Statutes, Chapter 617 and 720, the undersigned incorporator has executed, adopted and caused to be delivered for filing these Articles of Incorporation for the purpose of forming a corporation not for profit and does hereby certify:

## ARTICLE I

### NAME OF CORPORATION

The name of the corporation is PALM RIVER TOWNHOMES HOMEOWNERS ASSOCIATION, INC. (hereinafter called the "Association").

## ARTICLE II

### PRINCIPAL OFFICE OF THE ASSOCIATION

The principal place of business and the mailing address of the Association is located at 2502 North Rocky Point Drive, Suite 1050, Tampa, FL 33607.

## ARTICLE III

### REGISTERED OFFICE AND REGISTERED AGENT

The street address of the registered office of the Association is 1150 Cleveland Street, Suite 300, Clearwater, Florida 33755, and the name of the initial registered agent to accept service of process within the State of Florida at that address is Gary N. Strohauer, Esquire of Baxter, Strohauer, Mannion & Silbermann, P.A.

## ARTICLE IV

### DEFINITIONS

Unless otherwise provided herein to the contrary, all terms used in these Articles shall have the same definitions and meanings as those set forth in that certain Declaration of Covenants, Conditions and Restrictions for PALM RIVER TOWNHOMES recorded or to be recorded in the Public Records of Hillsborough County, Florida, as it may from time to time be amended (hereinafter called the "Declaration").

## ARTICLE V

## PURPOSE AND POWERS OF THE ASSOCIATION

The Association does not contemplate pecuniary gain or profit to the Members thereof. The specific purposes for which the Association is formed are to promote the health, safety, and general welfare of the residents within the Property described in that certain Declaration of Covenants, Conditions and Restrictions for PALM RIVER TOWNHOMES to be recorded in Hillsborough County, Florida, and any additions thereto as may hereafter be brought under the jurisdiction of the Association. The Association shall not pay dividends and no part of any income of the Association shall be distributed to its Members, directors or officers. The Association shall have all the powers of a not-for-profit corporation organized under the laws of the State of Florida, subject only to such limitations upon the exercise of such powers as are expressly set forth in these Articles, the Bylaws, or the Declaration. The Association shall have the power and duty to do any and all lawful things which may be authorized, assigned, required or permitted to be done by the Declaration, these Articles or the Bylaws, and to do and perform any and all acts which may be necessary or proper for, or incidental to, the exercise of any of the duties or powers of the Association for the benefit of the Owners and for the maintenance, operation and improvement of the Property and Areas of Common Responsibility, including, without limitation, the following powers:

(a) Own and convey real property;

(b) Own, operate, maintain and convey the Common Property and to operate and maintain Areas of Common Responsibility, including, without limitation, the Master Surface Water Management System and any personal property owned by the Association;

(c) Operate and maintain the Master Surface Water Management System including all inlets, ditches, swales, culverts, water control structures, retention and detention areas, ponds, lakes, flood plain, compensation areas, wetlands and any associated buffer areas, and wetland mitigation areas;

(d) Grant easements as to the Common Property to public and private utility companies, including, without limitation, cable television, and to public bodies or governmental agencies or other entities or persons, with or without cost or charge at the sole discretion of the Board of Directors, where convenient, desirable or necessary in connection with the development of the Properties, and the providing of utilities and other services thereto, and to enter into shared facilities agreements and related reciprocal easement agreements as may be deemed desirable to provide for utilities and other facilities, and the maintenance thereof and costs associated therewith with any third parties, including, without limitation, homeowners' associations and other public and private utility companies, agencies and entities;

(e) Establish rules and regulations for the operation of the Association, the Common Property and the Development;

(f) Annex additional real property in accordance with the provisions of the Declaration;

(g) Sue and be sued;

(h) Fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration, and to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the Association;

(i) Abate nuisances and enjoin or seek damages from Owners for violation of the provisions of these Articles, the Bylaws, the Declaration and any rules and regulations of the Association;

(j) Contract for services to be provided to and for the benefit of the Association, including, without limitation, contract for services to provide for the operation and maintenance of the Master Surface Water Management System if the Association contemplates employing a maintenance company for such purposes; and

(k) Purchase insurance of any nature in such amounts and with such companies as the Board of Directors shall deem necessary or appropriate.

## ARTICLE VI

## MEMBERSHIP

Section 1. Members. Every person or entity who is a record Owner of a fee interest in any Lot in the Property shall be a Member of the Association. The Declarant under the Declaration shall also be a Member for so long as Declarant owns any portion of the Property. Notwithstanding anything else to the contrary set forth in this Article, any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a Member of the Association. The Association membership of each Owner (other than Declarant) shall be appurtenant to and may not be separated from the Lot giving rise to such membership, and shall not be transferred except upon the transfer of title to said Lot and then only to the transferee of title thereto. Any prohibited separate transfer shall be void. Any transfer of title to a Lot shall operate automatically to transfer the membership in the Association appurtenant thereto to the new Owner thereof.

Section 2. Classes. The Association shall have two (2) classes of voting membership:

(1) Class "A". Class "A" Members shall be all Owners of Lots, with the exception of Declarant for so long as Declarant retains Class "B" voting rights. Class "A" Members shall be entitled on all issues to one (1) vote for each Lot in which they hold the interest required for membership.

(m) Class "B". The sole Class "B" Member shall be Declarant. Declarant shall be entitled to three (3) votes for each Lot actually or potentially included in the Property owned by Declarant. The actual number of votes of Declarant shall be determined, from time to time, in accordance with the terms of the Declaration. The Class "B" Member shall be entitled to cast all of its votes in any vote or election held by the Association.

(n) Termination of Class "B" Membership. As each Lot in the Property is conveyed by Declarant to a Class "A" Member, Declarant's votes for that Lot shall lapse. The Class "B" membership shall terminate and become converted to Class "A" membership upon the earlier of the following:

(i) When the total outstanding Class "A" votes in the Association equals or exceeds the total outstanding Class "B" votes; or

(ii) Ten (10) years from the date of recording the Declaration; or

(iii) At such earlier time as Declarant, in its discretion, may so elect.

Upon the happening of any one of these events, Declarant shall call a special meeting of the Members to advise of the termination of Class "B" membership, and provide written notice of such event.

Section 3. Multiple Owners. Each vote in the Association must be cast as a single vote, and fractional votes shall not be allowed. If joint or multiple Owners are unable to agree among themselves as to how their vote is to be cast, none of the votes for that Lot shall be counted. If any Owner casts a vote on behalf of a Lot, it shall be conclusively presumed that Owner was acting with the authority and consent of all other Owners of that Lot. If more than one Class "A" vote is cast for a particular Lot, none of said votes shall be counted and said votes shall be deemed void.

## ARTICLE VII

## BOARD OF DIRECTORS

The affairs of this Association shall be managed and administered by a Board of Directors consisting of at least three (3) members. Initially, the Board shall consist of three (3) members, with the number in subsequent years to be determined by the members of the Board or by amendment to the Bylaws of the Association; provided that there shall always be an odd number of directorships

created. Each director must be either (1) a Member of the Association, or (2) an officer, director or agent either of Declarant or of a member of Declarant. The names and addresses of persons who are to act in the capacity of director until appointment or election of their successors are:

| NAME | ADDRESS |
|---|---|
| John M. Ryan | 2502 North Rocky Point Drive, #1050<br>Tampa, FL 33607 |
| Michael Lawson | 2502 North Rocky Point Drive, #1050<br>Tampa, FL 33607 |
| Paul Ray, Jr. | 2502 North Rocky Point Drive, #1050<br>Tampa, FL 33607 |

Any other provision of this Article VII to the contrary notwithstanding, Owners other than Declarant shall be entitled to elect at least a majority of the members of the Board of Directors not later than the earliest of the events specified in Article VI, Section 2(c) above. Until then, Declarant shall be entitled to appoint and remove all members of the Board of Directors. Thereafter, Declarant shall be entitled to elect at least one member of the Board of Directors as long as Declarant holds for sale in the ordinary course of business at least five percent (5%) of the Lots in all phases of the Development. After Declarant relinquishes control of the Association, Declarant may exercise the right to vote any Declarant-owned voting interests in the same manner as any other Owner, except for purposes of reacquiring control of the Association or selecting the majority of the members of the Board of Directors. Interim vacancies in the Board of Directors shall be filled by Declarant until Declarant has no authority to appoint Directors and thereafter by the majority of the remaining Directors, and any such appointed Director shall serve for the remaining term of his predecessor. After Declarant relinquishes its right to appoint the Board of Directors, the Members shall elect the directors by majority vote, for staggered terms of three (3) years each. To create the staggered terms, one post shall become vacant in one (1) year and a successor director shall be elected. The second post shall be deemed vacant at the end of the second year, and a successor director shall be elected. The third post shall be deemed vacant at the end of the third year, and a successor director shall be elected. All successor directors shall serve for terms of three (3) years each. In the event that the number of people comprising the Board of Directors is changed, such change in number shall be implemented in such a manner as to have as nearly equal in number as possible the number of directors whose terms expire in any given year.

## ARTICLE VIII

### OFFICERS

The day-to-day affairs of the Association shall be administered, subject to the direction and authority of the Board of Directors, by the officers of the Association, which may include a President, Vice President, Secretary and Treasurer and such other officers as permitted by the

Bylaws. The Declarant shall have the right to appoint and remove any officer so long as Declarant shall own ten percent (10%) or more of the Lots in the Property; thereafter the officers shall be appointed by the Board of Directors and they shall serve at the pleasure of the Board of Directors. The names and addresses of the officers who shall serve until their successors are designated by the Board of Directors are as follows:

| NAME | ADDRESS |
|---|---|
| President:<br>John M. Ryan | 2502 North Rocky Point Drive, #1050<br>Tampa, FL 33607 |
| Secretary:<br>Michael Lawson | 2502 North Rocky Point Drive, #1050<br>Tampa, FL 33607 |
| Treasurer:<br>Paul Ray, Jr. | 2502 North Rocky Point Drive, #1050<br>Tampa, FL 33607 |

## ARTICLE IX

## DURATION

The corporation shall commence to exist upon the filing of these Articles with the Florida Department of State and shall thereafter exist in perpetuity. In the event the Association is dissolved, the Master Surface Water Management System and any other Common Property shall be conveyed to an appropriate agency of local government, and that if such property is not accepted thereby, then the Master Surface Water Management System and any other Common Property shall be dedicated to another not for profit corporation.

## ARTICLE X

## AMENDMENTS

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

Section 1. Notice. Notice of a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered and shall be otherwise given in the time and manner provided in Chapters 617 and 720, Florida Statutes. Such notice shall contain the proposed amendment or a summary of the changes to be affected thereby.

Section 2. Adoption. Amendments shall be proposed and adopted in the manner provided in Chapters 617 and 720, Florida Statutes. Subject to the terms of Article XIV, any amendment to these

Articles of Incorporation shall require the assent of two thirds (2/3) of the votes of the entire membership without regard to class.

Section 3. Amendment by Declarant. Notwithstanding the provisions of Sections 1 and 2 of this Article X, the Declarant shall have the right to amend these Articles at any time in its sole and absolute discretion so long as Class B Membership exists.

Section 4. Recording. A copy of each amendment shall be filed with the Secretary of State pursuant to the provisions of applicable Florida law, and a copy certified by the Secretary of State shall be recorded in the public records of Hillsborough County, Florida.

Section 5. Limitations. No amendment shall be made that is in conflict with the Declaration.

## ARTICLE XI

## BYLAWS

The Bylaws of the Association shall be adopted by the Board of Directors and may be altered, amended, or rescinded in the manner provided in the Bylaws.

## ARTICLE XII

## INDEMNIFICATION OF OFFICERS AND DIRECTORS

Section 1. The Association shall defend, indemnify and hold harmless any person of the Association who is made a party or is threatened to be made a party to any threatened, pending, or contemplated action, suit or proceedings, whether civil, criminal, administrative, or investigative, by reason of the fact that he is or was a director, officer, committee member, employee or agent of the Association:

(a) From and against expenses (including reasonable attorneys' fees for pretrial, trial, or appellate proceedings), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with an action, suit, or proceeding (other than one by or in the right of the Association), if he acted in good faith, and, with respect to any criminal action or proceedings, he had no reasonable cause to believe his conduct was unlawful; and

(b) From and against expenses (including reasonable attorneys' fees for pretrial, trial, or appellate proceedings) actually and reasonably incurred by him in connection with the defense or settlement of an action or suit by or in the right of the Association, if he acted in good faith.

Section 2. 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, of itself, create a presumption that the person did not act in good faith, or, with respect to any criminal action or proceeding, that such person had reasonable cause to believe that his conduct was unlawful.

Section 3. Notwithstanding any other provision hereof to the contrary, no indemnification shall be made with respect to any claim, issue, or matter as to which such person shall have been adjudged to be liable for gross negligence or misconduct in the performance of his duty to the Association.

Section 4. Any indemnification under Section 1 (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the director or officer, committee member, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in Section 1. Such determination shall be made (a) by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to such action, suit, or proceeding, or (b) if such quorum is not obtainable, or even if obtainable and a quorum of disinterested Directors so directs, by a majority vote of Members of the Association.

Section 5. Expenses incurred in defending a civil or criminal action, suit, or proceeding shall be paid by the Association from time to time as incurred rather than only after the final disposition of such action, suit, or proceeding. Payment of such expenses shall be authorized by the Board of Directors in each specific case only after receipt by the Association of an undertaking by or on behalf of the director or officer to repay such amounts if it shall later develop that he is not entitled to be indemnified by the Association.

Section 6. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which the Association's directors, officers, committee members, employees or agents may be entitled under the Association's bylaws, agreement, vote of Members or disinterested directors, or otherwise, both as to actions in their official capabilities and as to action in another capacity while holding such offices or positions, and shall continue as to a person who has ceased to be a director, officer, committee member, agent or employee and shall inure to the benefit of the heirs, executors and administrators of such a person.

Section 7. Notwithstanding the foregoing provisions, indemnification provided under this Article shall not include indemnification for any action of a director, officer, committee member, agent or employee of the Association for which indemnification is deemed to be against public policy. In the event that indemnification provided under this Article is deemed to be against public policy, such an event shall not invalidate or affect any other right or indemnification herein provided.

Section 8. The Association shall have the power, but shall not be obligated, to purchase and maintain indemnification insurance to provide coverage for any liability asserted against any director, officer, committee member, agent or employee of the Association in any of his capacities as described in Section 1, whether or not the Association would have the power to indemnify him or her under this Article.

Section 9. Any person requesting indemnification shall first look to any insurance maintained by the Association for indemnification against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement (as described above). The Association shall be obligated to indemnify such person (if entitled to indemnification by the Association) only to the extent such insurance does not indemnify such person. In the event that any expenses, judgments,

fines, or amounts paid in settlement are paid pursuant to insurance maintained by such Association, the Association shall have no obligation to reimburse the insurance company.

## ARTICLE XIII

### INCONSISTENCY

In the event of any inconsistency between the terms and provisions contained in the Declaration and those contained in these Articles of Incorporation, the terms and provisions of the Declaration shall prevail.

## ARTICLE XIV

### REQUIRED APPROVALS

Notwithstanding anything in these Articles to the contrary, as long as there exists a Class "B" membership, if any one or more of HUD, FHA or VA requires approval or consent by it or them to annexation of Additional Property, any merger or consolidation involving the Association, the placing of any mortgage lien on the Common Property, dedication to the public of any Common Property, any amendment of the Declaration or these Articles, or dissolution of the Association, by any one or more of said agencies as a condition of making, insuring or purchasing loans on Dwellings in the Property, and any such loan has been approved, insured or purchased by the applicable agency at the time of the proposed annexation, merger, consolidation, mortgaging, dedication, amendment or dissolution, then the required consent or approval shall be obtained. In addition, in the event of termination, dissolution or final liquidation of the Association, the responsibility for the operation and maintenance of the Master Surface Water Management System must be transferred to and accepted by an entity which would comply with Section 40D-4, F.A.C., and be approved by the Southwest Florida Water Management District prior to such termination, dissolution or liquidation.

## ARTICLE XV

### INCORPORATOR

The name and street address of the sole incorporator to these Articles of Incorporation is John M. Ryan, 2502 North Rocky Point Drive, #1050, Tampa, FL 33607.

**IN WITNESS WHEREOF,** for the purpose of forming this corporation under the laws of the State of Florida, the undersigned, constituting the sole incorporator of this Association, has executed these Articles of Incorporation this 25 day of October, 2005.

John M. Ryan
Incorporator

STATE OF FLORIDA
COUNTY OF Hillsborough

The foregoing Articles of Incorporation were acknowledged before me this 25 day of Oct, 2005 by John M. Ryan, who is personally known to me.

Anne Duffy
My Commission DD133694
Expires September 01 2006

Notary Public
My Commission Expires: 9.01.06

## CERTIFICATE DESIGNATING REGISTERED AGENT FOR SERVICE OF PROCESS

Pursuant to Chapters 48 and 617, Florida Statutes, the following is submitted in compliance with said Acts.

PALM RIVER TOWNHOMES HOMEOWNERS ASSOCIATION, INC., desiring to organize as a corporation under the laws of the State of Florida, with its registered office at 1150 Cleveland Street, Suite 300, Clearwater, Florida 33755, has named Gary N. Strohauer, Esquire, of Baxter, Strohauer, Mannion & Silbermann, P.A., located at the above-registered office, as its Registered Agent to accept service of process within this State.

ACKNOWLEDGMENT:

Having been named to accept service of process for the above-stated corporation at the place designated in this Certificate, I hereby accept to act in this capacity and agree to comply with the provisions of said Acts relative to keeping open said office.

Registered Agent:

Gary N. Strohauer

Dated: 10/26, 2005

EXHIBIT "C"

# BY-LAWS
# OF
# PALM RIVER TOWNHOMES HOMEOWNERS ASSOCIATION, INC.

## ARTICLE I

## IDENTITY AND LOCATION

These are the By-Laws of PALM RIVER TOWNHOMES HOMEOWNERS ASSOCIATION, INC., herein called the Association, a not for profit corporation organized and existing under Chapters 617 and 720, Florida Statutes, for the purpose of administering the Property, as defined in and in accordance with the terms and conditions of that certain Declaration of Covenants, Conditions and Restrictions for PALM RIVER TOWNHOMES (the "Declaration"). The principal office of the Association shall be located at 2502 North Rocky Point Drive, #1050, Tampa, FL 33607, but meetings of the Board of Directors may be held at such places within the State of Florida as may be designated by the Board of Directors.

## ARTICLE II

## GENERAL

Section 1. Incorporation of Declaration. As supplemented herein, the regulation of the business and affairs of the Association shall be governed by certain provisions of the Declaration, as amended from time to time, which are incorporated herein by reference as if set forth verbatim.

Section 2. Definitions. The definitions set out in the Declaration are incorporated herein by reference.

## ARTICLE III

## ASSOCIATION PURPOSES AND POWERS

Section 1. Association's Purposes. The Association has been organized for the purposes set forth in the Declaration and Articles, including, without limitation, the following:

(a) to own, operate, maintain and convey the Common Property and to operate and maintain Areas of Common Responsibility, including without limitation the Master Surface Water Management System, and any personal property owned by the Association;

(b) to clean, clear, trim, remove weeds, limbs, and debris from, and to provide general grounds maintenance for both the Common Property and the Areas of Common Responsibility;

(c) to fix assessments to be levied against the Lots in the Property;

(d) to enforce any and all covenants and agreements contained in the Declaration; and

(e) to pay taxes and insurance, if any, on the Common Property or Areas of Common Responsibility.

Section 2. Records of the Association. The Association shall maintain each of the following items, when applicable, which constitute the official records of the Association:

(a) Copies of any plans, specifications, permits, and warranties related to improvements constructed on the Common Property or Areas of Common Responsibility;

(b) A copy of these By-Laws and of each amendment thereto;

(c) A copy of the Articles of Incorporation of the Association and of each amendment thereto;

(d) A copy of the Declaration and each amendment thereto;

(e) A copy of the current rules of the Association;

(f) The minutes of all meetings of the Board of Directors;

(g) All of the Association's insurance policies or copies thereof;

(h) A current copy of all contracts to which the Association is a party, including, without limitation, any management agreement, lease, or other contract under which the Association has any obligation or responsibility; and

(i) The financial and accounting records of the Association, kept according to good accounting practices, which financial and accounting records shall be maintained for a period of at least seven (7) years. The financial and accounting records shall include: (1) accurate, itemized, and detailed records of all receipts and expenditures, (2) a current account and a periodic statement of Assessments or other charges, the due date and amount of each Assessment or other charge, the date and amount of each payment on the account, and the balance due, (3) all tax returns, financial statements, and financial reports of the Association, and (4) any other records that identify, measure, record, or communicate financial information.

Section 3. Inspection of Records. The official records of the Association shall be maintained within the State of Florida and must be open to inspection and available for photocopying by Members or their authorized agents at reasonable times and places within ten (10) business days after receipt of written request for access. This Section may be complied with by having a copy of the records available for inspection or copying in the Development.

## ARTICLE IV

### MEETING OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the Association shall be held within ninety (90) days after all Dwellings and other improvements to be constructed by the Declarant, or builders and developers within the Development, on the Property and any additions thereto have been completed and conveyed to Members other than the Declarant, builders or developers, or other third parties, as applicable, or at such earlier date as Declarant may establish in a written notice to the membership. Each subsequent regular annual meeting of the Members shall be held on the same day of the same month of each year thereafter. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday. Business transacted at the Annual Meeting shall include the election of directors of the Association.

Section 2. Special Meeting. Special meetings of the Members may be called at any time by the president or by the Board of Directors, and shall be called upon written request of Members entitled to vote one-half (1/2) of all votes in the Association.

Section 3. Notice of Meeting. Written notice of each meeting of the Members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least 15 days before such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting. An assessment may not be levied at a board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature thereof.

Section 4. Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If such quorum is not present or represented at any meeting, the Members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present or represented.

Section 5. Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of title to that Member's Lot.

## ARTICLE V

### BOARD OF DIRECTORS

Section 1. Board of Directors; Selection; Terms of Office. The affairs of the Association shall be managed by a Board of Directors. The initial Board of Directors shall consist of at least three (3) Directors who shall be selected by the Declarant. Initially, the Board shall consist of three

(3) members, with the number in subsequent years to be determined by the members of the Board or by amendment to these Bylaws of the Association; provided that there shall always be an odd number of directorships created. Each director must be either (1) a Member of the Association, or (2) an officer, director or agent either of Declarant or of a member of Declarant. The Declarant shall have the sole right to appoint and remove any member or members of the Board of Directors of the Association pursuant to Article VII of the Articles of Incorporation until the earliest of the events specified in Article III, Section 3(c) of the Declaration. At such time, the members of the Board shall be determined as set forth in Article VI herein. Declarant shall be entitled to elect at least one member of the Board of Directors as long as Declarant holds for sale in the ordinary course of business at least five percent (5%) of the Lots in all phases of the Development.

Section 2. Vacancies in the Board of Directors. Vacancies in the Board of Directors shall be filled by Declarant until Declarant has no authority to appoint Directors and thereafter by the majority of the remaining Directors, or by a sole remaining Director, and any such appointed Director shall serve for the remaining term of his predecessor.

## ARTICLE VI

## NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. At such time as the Declarant is no longer entitled to elect all of the Directors pursuant to Article V above (and with the exception of the one (1) Director Declarant is entitled to elect as set forth in Article V, Section 1 above), nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among Members or non-members, subject to Article VII of the Articles of Incorporation,

Section 2. Election. When the Board of Directors is chosen by the Nominating Committee, said election to the Board of Directors shall be by secret written ballot. At such election the Members may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted and votes must made be in person at a Members' meeting or by ballots the Members personally cast.

## ARTICLE VII

### POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Board of Directors' Powers. The Board of Directors shall have power:

(a) to call special meetings of the Board;

(b) subject to Article IX herein, to appoint and remove at its pleasure all officers, agents and employees of the Association, prescribe their duties, fix their compensation and require of them such security or fidelity bond as it may deem expedient. Nothing contained in these By-Laws shall be construed to prohibit the employment of any Officer or Director of the Association in any capacity whatsoever;

(c) to establish, levy and assess, and collect assessments or charges in accordance with the Declaration;

(d) to adopt and publish rules and regulations governing the use of the Common Property and Areas of Common Responsibility;

(e) to exercise for the Association all powers, duties and authority vested in or delegated to the Association;

(f) to fill vacancies on the Board of Directors pursuant to Article V, Section 2 above;

(g) to appoint an Executive Committee of three (3) Directors and delegate all or any portion of the powers of the Board of Directors to this Executive Committee, subject to the limitations on the authority of the Executive Committee imposed by law;

(h) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties; and

(i) to take such other action as provided in the Declaration.

Section 2. Board of Directors' Duties. It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by at least one-fourth (1/4) of the Class "A" Members who are entitled to vote;

(b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed as more fully provided in the Declaration, to:

(1) Fix the amount of the annual assessment against each Lot;

(2) Send written notice of each assessment to every Owner subject thereto in advance of each annual assessment period; and

(3) foreclose the lien against any Lot for which assessments are not paid or to bring an action at law against the Owner personally obligated to pay same.

(c) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment as against third parties relying thereon;

(d) procure and maintain adequate liability, hazard and other insurance on any Common Property or Areas of Common Responsibility;

(e) cause all officers or employees having fiscal responsibilities to be bonded, if the Board deems appropriate;

(f) cause the Common Property, Areas of Common Responsibility, and the Master Surface Water Management System for the Property to be maintained.

(g) prepare the annual budget in accordance with the Declaration; and

(h) prepare a roster of the Owners and Lots and the assessments applicable thereto, which roster shall be kept in the office of the Association.

Section 3. Resignation. A Director of the Association may resign at any time by giving a written notice to the Board of Directors of the Association. The resignation of any Director shall take effect upon delivery of the notice thereof or at such later time as shall be specified in such notice; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 4. Removal. For the period set forth in Article V, Section 1 above, any Director may only be removed, with or without cause, by the Declarant. Thereafter, except as otherwise provided in the Declaration, any Director may be removed, with or without cause, by a two-thirds (2/3) vote of the members of the Board.

Section 5. Directors' Fees. There shall be no Directors fees paid to members of the Board of Directors, except that Directors shall be entitled to reimbursement of out-of-pocket costs authorized by the Board of Directors.

## ARTICLE VIII

## DIRECTORS' MEETINGS

Section 1. Directors' Annual Meeting. The annual meeting of the Board of Directors shall be held at the discretion of the Board of Directors with ample notice given to each member.

Section 2. Notice. Not less than ten (10) days written notice of such annual meeting shall be given to each Director.

Section 3. Regular Meetings. Regular meetings of the Board of Directors shall be held at such time and at such place and hour as may be fixed from time to time by a majority of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 4. Special Meetings. Special meetings of the Board of Directors shall be held when called by any officer of the Association or by any two (2) Directors after not less than three (3) days notice to each Director.

Section 5. Waiver of Notice. A Director may waive notice of a meeting of the Directors before or after the date and time stated in the notice. Except as otherwise provided in this Section 5, the waiver must be in writing, signed by the Director entitled to the notice and filed with the minutes or corporate records. Attendance of a Director at any meeting shall constitute waiver of notice of such meeting, except where the Director attends for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened and does not thereafter vote for or assent to action taken at the meeting. If a meeting otherwise valid of the Board of Directors is held without notice where such is required, any action taken at such meeting shall be deemed ratified by a Director who did not attend, unless after learning of the action taken and of the impropriety of the meeting, he makes prompt objection thereto. Objection by a Director shall be effective only if written objection to the holding of the meeting or to any specific action so taken is filed with the Secretary of the Association.

Section 6. Action Upon Written Consent Without a Meeting. Action of the Board of Directors may be taken without a meeting upon the written consent signed by all members of the Board. Any such action without a meeting shall be effective on the date the last Board member signs the consent or on such date as is specified in the consent. Any such action by written consent shall have the same effect as a vote taken at a meeting of the Board of Directors.

Section 7. Board Quorum and Voting. The majority of the Board of Directors shall constitute a quorum thereof. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Directors may not vote by proxy or by secret ballot at board meetings, except that secret ballots may be used in the election of officers.

## ARTICLE IX

## OFFICERS

Section 1. Association Officers. The officers shall be a President, a Secretary and a Treasurer. The Corporation may, but shall not be required to, have one or more vice presidents, assistant secretaries and/or assistant treasurers. The officers may be, but shall not be required to be, members of the Board of Directors.

Section 2. Election of Officers. The Declarant shall have the sole right to appoint and remove any officer of the Association for the period of time during which the Declarant may appoint and remove Directors as set forth in Article V, Section 1 above. Thereafter, all officers shall hold office at the pleasure of the Board of Directors.

Section 3. Removal of Officer. Upon an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board called for such purpose.

Section 4. Special Appointment. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may from time to time determine. When a final decision regarding an expenditure of Association funds is to be made by such special appointment, no vote may be made by proxy or secret ballot.

Section 5. Multiple Offices. The holding of multiple offices shall be permitted.

Section 6. Duties. The duties of the officers are as follows:

(a) President. The president shall be the chief executive officer of the Association. The president shall preside at all meetings of the Members and of the Board of Directors. Except where otherwise provided by law or these Bylaws, the president shall have the general powers and duties of supervision and management of the Association, shall see that orders and resolutions of the Board are carried out, shall sign all leases, mortgages, deeds and other written instruments, shall co-sign all promissory notes, and shall perform all such other duties as are incidental to his or her office or as are required by the Board.

(b) Vice President. The vice president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board or the president.

(c) Secretary. The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses; and shall perform such other duties as required by the Board.

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

## ARTICLE X

## LIABILITY AND INDEMNIFICATION

Section 1. Liability of Board Members. No Board member or officer of the Association shall be liable to any Owner for any decision, action or omission made or performed by such Board member or officer in the course of his duties unless such Board member or officer acted in bad faith or in reckless disregard of the rights of any person or of the terms of the Declaration or these By-Laws.

Section 2. Indemnification. To the fullest extent allowed by Section 617.0831, Florida Statutes, as same may be amended, and subject to any limitations set forth in the Declaration or Articles, the Association shall indemnify the Directors, officers, employees, agents and other persons specifically designated from time to time by the Board of Directors whom it may indemnify pursuant to law. In this connection, the Association is authorized to take out such insurance as it may deem necessary or desirable consistent with such indemnification.

## ARTICLE XI

## INSURANCE

The Board of Directors or its duly authorized agent shall obtain hazard insurance for improvements to the Common Property and Areas of Common Responsibility and a broad form public liability policy covering all Common Property and Areas of Common Responsibility and all damage or injury caused by negligence of the Association or any of its agents as more fully described in the Declaration.

## ARTICLE XII

### AMENDMENTS

These By-Laws may be amended or repealed and new By-Laws adopted by the Directors so long as Declarant has the authority to appoint the Directors and thereafter by a majority vote of the Board of Directors present, in person or by proxy, and entitled to vote at a regular or special meeting of the Board; provided that any matter which is in fact governed by the Declaration may not be amended except as provided in the Declaration. Notwithstanding anything herein to the contrary, HUD, FHA and VA shall have the right to veto any amendments to these Bylaws as long as a Class "B" membership exists.

## ARTICLE XIII

### COMMITTEES

The Association shall appoint a Nominating Committee, as provided in these Bylaws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

## ARTICLE XIV

### ASSESSMENTS

As more fully provided in the Declaration, each Member is obligated to pay to the Association annual, special and individual assessments which are secured by a lien upon the property against which the assessment is made.

## ARTICLE XV

### CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: PALM RIVER TOWNHOMES HOMEOWNERS ASSOCIATION, INC., a Florida not for profit corporation," and the year of incorporation in the center of that circle.

## ARTICLE XVI

### GENERAL

Section 1. Conflicts. It is intended that the provisions of the Declaration which apply to the governance of the Association, as supplemented by the provisions in these By-Laws which are not contained in the Declaration, shall operate as the By-Laws of the Association. In the case of any conflict between such provisions set forth in the Declaration and these By-Laws, the Declaration shall control.

Section 2. Waiver. No provision of these By-Laws or any regulation promulgated by the Board of Directors pursuant hereto shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, regardless of the number of violations or breaches which may have occurred.

Section 3. Severability. The provisions of these By-Laws are severable, and the invalidity of one or more provisions hereof shall not be deemed to impair or affect in any manner the enforceability or effect of the remainder.

Section 4. Captions. Captions are inserted herein only as a matter of convenience and for reference and in no way define, limit, or describe the scope of these By-Laws or the intent of any provision.

Section 5. Gender and Number. All nouns and pronouns used herein shall be deemed to include the masculine, the feminine, and the neuter, and the singular shall include the plural and the plural shall include the singular whenever the context requires or permits.

Section 6. Roberts Rules. All meetings of the membership of the Board of Directors shall be conducted in accordance with *Roberts Rules of Orders Revised*.

Section 7. Fiscal Year. The fiscal year of the Association shall begin on the 1st day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

IN WITNESS WHEREOF, we, being all of the directors of PALM RIVER TOWNHOMES HOMEOWNERS ASSOCIATION, INC., have adopted these Bylaws as the Bylaws of the Association this 25th day of October, 2005.

John M. Ryan, Director

Michael Lawson, Director

Paul Ray, Jr., Director

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JOINDER AND CONSENT BY MORTGAGEE

KNOW ALL MEN BY THESE PRESENTS:

THAT MERCANTILE BANK (the "Mortgagee"), whose address is 2307 West Kennedy Boulevard, Tampa, FL 33609, the owner and holder of that certain Mortgage and Security Agreement dated February 25, 2004, and recorded in Official Records Book 13582, Page 1247, and that Second Mortgage and Security Agreement dated February 25, 2004, and recorded in Official Records Book 13582, Page 1283, and that certain Collateral Assignment of Rents and Leases dated February 25, 2004, and recorded in Official Records Book 13582, Page 1264, and that certain Collateral Assignment of Contract and Other Rights dated February 25, 2004, and recorded in Official Records Book 13582, Page 1271, and that certain UCC-1 Financing Statement recorded in Official Records Book 13582, Page 1278, all of the foregoing being of the Public Records of Hillsborough County, Florida, (collectively, the "Security Documents") encumbering the Property described in the foregoing Declaration of Covenants, Conditions and Restrictions for (the "Declaration"), by the execution hereof, hereby joins into and consents to the placing of the Declaration on the Property described in Exhibit "A" to the Declaration.

IN WITNESS WHEREOF, the Mortgagee has executed this Joinder and Consent by Mortgagee this 27 day of October, 2005.

Signed, sealed and delivered
in the presence of:

Printed Name: K. OWEN LAFAVE

Printed Name: Maureen Schmer Marecle

MERCANTILE BANK

By: _____

Name: CRAIG H. CARRIER

Title: SENIOR VICE PRESIDENT

(CORPORATE SEAL)

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me this 27 day of October, 2005, by Craig H. Carrier as S.V.P. of Mercantile Bank, a Florida banking corporation, on behalf of the bank. He is personally known to me.

Maureen Schmer Marecle
Notary Public, State of Florida
Printed name:
My Commission Expires:

MAUREEN SCHMER MARECLE
Notary Public - State of Florida
My Commission Expires Feb 5, 2009
Commission # DD 379139
Bonded By National Notary Assn

NOTARY SEAL

JOINDER AND CONSENT OF OWNER

KNOW ALL MEN BY THESE PRESENTS:

KB HOME TAMPA, LLC, whose address is 3450 Buschwood Boulevard, Suite 250, Tampa, FL 33618, is the owner of Lots 1 through 6 inclusive, Building 10; Lots 1 through 6 inclusive, Building 11; Lots 1 through 4 inclusive, Building 12; Lots 1 through 6 inclusive, Building 20; and Lots 1 through 4 inclusive, Building 21, of PALM RIVER PHASE 1, according to the plat thereof recorded in Plat Book 106, Page 130, of the Public Records of Hillsborough County, Florida, and, by the execution hereof, hereby joins into and consents to the placing of the foregoing Declaration on the Property described in Exhibit "A" to the Declaration and further agrees and acknowledges that the above-described lots shall be held subject to the Declaration.

IN WITNESS WHEREOF, KB HOME TAMPA, LLC has executed this Joinder and Consent of Builder on this 30 day of November, 2005.

Signed, sealed and delivered
in the presence of:

Printed Name: Chloe Firebaugh

Printed Name: Darlene Nonnweiler

KB HOME TAMPA, LLC

By: _____
Name: J. Curt Wilkinson
Title: VP, Planning & Development

(CORPORATE SEAL)

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me this 30th day of November, 2005, by J. Curt Wilkinson as VP, Planning & Development of KB Home Tampa, LLC, on behalf of the limited liability company. He/she is personally known to me.

_____
Notary Public, State of Florida
Printed name: Isha Campos
My Commission Expires: _____

(NOTARY SEAL)

ISHA CAMPOS
Notary Public - State of Florida
My Commission Expires Oct 26, 2009
Commission # DD 485896
Bonded By National Notary Assn.