

This Instrument Prepared By  
& Requested Be Returned To:  
Craig B. Hill, Esquire  
Clark, Campbell & Mawhinney, P.A.  
500 South Florida Avenue, Suite 800  
Lakeland, Florida 33801

**MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR VIENNA SQUARE**

**THIS IS A MASTER DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS** ("Declaration") made this 1st day of December, 2006 by BAYTREE PARTNERS, LLC, a Florida limited liability company ("Declarant") for itself and its successors, grantees and assigns.

**RECITALS:**

WHEREAS, Declarant owns certain real property located in Polk County, Florida, and intends to create thereon a planned development of single-family homes, multi-family structures and related recreational and other common facilities and amenities to be known as Vienna Square, and may be sometimes herein referred to as the Community; and

WHEREAS, Declarant intends to create within the Community an area dedicated to multi-family structures and related recreational and other common facilities and amenities to be known as The Villas at Vienna Square, and may be sometimes herein referred to as the Villas; and

WHEREAS, the real property which is intended to be developed as Vienna Square is described in **Exhibit "A"** to this Declaration, as this Declaration may be amended from time to time (the "Lands"); and

WHEREAS, the portion of the Lands which is initially contemplated to be developed as The Villas at Vienna Square is described in **Exhibit "B"** to this Declaration, as this Declaration may be amended from time to time (the "Villas Lands"); and

WHEREAS, to preserve, protect and enhance the values of the Lands and amenities in the Community, and the general health, safety and welfare of the residents, Declarant deems it desirable to subject the Community to certain protective covenants, conditions and restrictions; and

WHEREAS, to provide a means for meeting the purposes and intents herein set forth, Vienna Square Homeowners' Association, Inc., a Florida not for profit corporation (the "Association") has been incorporated; and

WHEREAS, to provide a means for meeting the purpose and intents herein set forth, The Villas at Vienna Square Homeowners' Association, Inc., a Florida not for profit corporation (the "Villas Association") has been incorporated; and

WHEREAS, Declarant shall, in its sole and absolute discretion, from time to time, convey, lease or grant a license or other use right to any portion of the Lands within or other property outside of the Community by deed, easement, plat dedication, or otherwise to the Association or the Villas Association (both of which shall accept the same, as applicable) for the purpose of maintenance, landscaping, drainage, recreation or other purposes for the use and benefit of the Members (hereinafter defined) and the Villas Members (hereinafter defined), as applicable, and their families, tenants and guests.

**NOW, THEREFORE,** the Declarant, and any other person owning an interest in the Lands who consents to or joins in the making of this Declaration, hereby declares that the Lands described in **Exhibit "A"** hereto, as such description may be amended from time to time, are and shall be owned, used, sold, conveyed, encumbered, demised and occupied subject to the provisions of this Declaration, which shall run with the Lands and be binding on all parties having any right, title or interest in the Lands or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner (hereinafter defined) thereof. Additional real property may be added to the Lands or the Villas Lands or both, by Declarant in its sole and absolute discretion, by an amendment to this Declaration, including without limitation, an amendment to **Exhibit "A"** or **Exhibit "B"** or both hereto, consented to or joined in only by Declarant and all persons having a record ownership interest in the property being added. The express intent of Declarant is to add additional real property in its sole and absolute discretion to the Lands by an amendment to this Declaration; however, Declarant shall be under no obligation to do so. The additional real property may include, by way of example but without limitation, additional Lots (hereinafter defined), amenities, recreational vehicle and boat storage, storage barns and other items necessary in the sole and absolute discretion of Declarant. Nothing herein contained, and no violation of these covenants, conditions and restrictions shall invalidate or impair the lien of any mortgage or deed of trust given in good faith and for value. Further, the express intent of Declarant is that substantive contract rights created hereunder shall not be retroactively affected by any local, state, or federal legislation enacted subsequent to the recording of this Declaration.

1. **DEFINITIONS.** The following definitions shall apply to the terms used in this Declaration and its recorded exhibits.
- 1.1 **“Architectural Review Committee” or “ARC”** shall mean the Architectural Review Committee as established and empowered in Section 6 of this Declaration.
- 1.2 **“Assessment” or “Assessments”** shall mean a share of the funds required for, including without limitation, the payment of the expenses of the Association which from time to time are assessed against the Members, including without limitation, annual Assessments and special Assessments, and the System Assessment (as provided herein) which is levied and payable to MX (hereinafter defined) as authorized by Section 9 of this Declaration.
- 1.3 **“Association”** shall mean Vienna Square Homeowners’ Association, Inc., a Florida not for profit corporation, which has its principal place of business in Polk County, Florida, and its successors and assigns.
- 1.4 **“Board of Directors”** shall mean the Board of Directors of the Association.
- 1.5 **“Common Areas”** shall mean any and all platted portions of the Community other than the Lots (hereinafter defined) and the improvements thereon depicted and designated on any plat of the Community by Declarant as “Common Areas” or words of similar import or designated as such in a recorded amendment to this Declaration. As of the date of recording this Declaration, the general plan for the Community (hereinafter defined) includes by way of example, but without limitation, the following Common Areas: clubhouse, swimming pool, tennis court, streets, security wall, and utility lines outside of and to each Lot line. However, notwithstanding the immediately preceding sentence, Declarant shall not be obligated to construct all such Common Areas. The Common Areas may be dedicated by Declarant to the Association on a plat(s) of the Community, and in such event, the Association shall operate, maintain and hold record title thereto.
- 1.6 **“Community”** shall mean all real property comprising Vienna Square now or in the future.
- 1.7 **“Conservation Area”** shall mean the wetland preserve areas and the upland preserve areas within the Community. Any Conservation Area shall be owned by the Association.

- 1.8 **"County"** shall mean Polk County, Florida.
- 1.9 **"Declarant"** shall mean Baytree Partners, LLC, a Florida limited liability company, and its successors or assigns.
- 1.10 **"Developer"** shall mean Baytree Partners, LLC, a Florida limited liability company, or any other developer to which Declarant specifically assigns all or a portion of the rights it may have under this Declaration to develop part or all of Vienna Square. Declarant is initially the Developer.
- 1.11 **"Family"** shall mean one (1) adult natural person occupying a Living Unit (hereinafter defined) meeting the requirements set forth in Section 17 of this Declaration, and that person's spouse, if any.
- 1.12 **"Governing Documents"** shall mean this Declaration and the Articles of Incorporation and Bylaws of the Association, all as amended from time to time. In the event of a conflict in the interpretation of the Governing Documents, they shall be applied in the order of priority as listed in this Section 1.12.
- 1.13 **"Guest"** shall mean any person who is physically present in, or occupies a Living Unit on a temporary basis at the invitation of the Owner or other legally permitted Occupant (hereinafter defined), without the payment of consideration.
- 1.14 **"Institutional Mortgagee"** shall mean:
- (A) a lending institution having a first mortgage lien upon a Lot, Parcel or Tract (Lot, Parcel and Tract are all hereinafter defined), including any of the following institutions: a Federal or State savings and loan or building and loan association, a bank chartered by a state or federal government, a real estate investment trust, a pension and profit sharing trust, a mortgage company doing business in the State of Florida, or a life insurance company; or
  - (B) a governmental, quasi-governmental or private agency that is engaged in the business of holding, guaranteeing or insuring residential mortgage loans (including without limitation the Federal National Mortgage Association), Governmental National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Housing Administration and Veterans Administration

and which holds, guarantees or insures a first mortgage upon a Lot or Living Unit; or

- (C) Developer, and any and all investors or lenders, or the successors and assigns of such investors or lenders which have loaned money to Developer to acquire, develop, or construct improvements upon the Community and who have a mortgage lien on all or a portion of the Community securing such loan. An "Institutional Mortgage" is a mortgage held by an Institutional Mortgagee encumbering a Lot or Living Unit.

- 1.15 **"Lands"** shall mean the land described in **Exhibit "A"** to this Declaration, as it may be amended from time to time.
- 1.16 **"Lease"** when used in connection with a Living Unit, shall mean the grant by the Owner of the Living Unit of a temporary right of use of the Living Unit for valuable consideration.
- 1.17 **"Living Unit"** shall mean any residential structure, including a single family detached or multi-family attached dwelling unit located upon a Lot and intended for occupancy by one (1) Family or household. If a Living Unit is a free-standing or attached single family home or structure located on a Lot, the use of the term "Living Unit" shall be interpreted as if the term was followed immediately by the words "and the Lot on which it is located."
- 1.18 **"Lot"** shall mean one (1) or more of the platted portions of the Lands into which the Community has been subdivided, upon each of which: (i) a single Living Unit has been or is intended to be constructed or located; or (ii) a multi-family attached Living Unit (i.e., Living Units in the Villas) has been or is intended to be constructed or located. Unless the context clearly requires a different interpretation, the term "Lot" shall be interpreted as if it were followed by the words "and the Living Unit constructed thereon or located thereon."
- 1.19 **"Member"** shall mean any or all of those persons who are entitled to membership in the Association, as provided in the Governing Documents.
- 1.20 **"Occupy"** when used in connection with a Living Unit, shall mean the act of being physically present in the Living Unit on two (2) or more consecutive days, including staying overnight. An "Occupant" is one who occupies a Living Unit.

- 1.21 **"Owner"** shall mean the record owner of legal title to any Lot, Living Unit, Tract, or Parcel.
- 1.22 **"Parcel"** shall mean any and all unplatted portions of the Community.
- 1.23 **"PD"** shall mean and refer to the Planned Development project applicable to the Villas Lands, adopted by the County and/or the applicable division or department of the County, and any other adoptions or ordinances applicable or related thereto as may be later adopted or created by the County or the City of Winter Haven, all as amended from time to time.
- 1.24 **"SWFWMD"** shall mean the Southwest Florida Water Management District, or its successors or assigns.
- 1.25 **"Service Assessment"** shall mean a charge against one (1) or more Lots or Living Units for any service, material or combination thereof which may be provided by the Association or the Villas Association, as applicable, for the use and benefit of the Owners or Villas Owners (hereinafter defined), as applicable, on a voluntary basis, such as contracting in bulk for repairs, services, materials or maintenance. The amount paid or incurred by the Association or the Villas Association, as applicable, on behalf of the Owners or Villas Owners, as applicable, accepting or receiving such material or service shall be a Service Assessment against the Lot or Living Unit so benefitted. An Owner or Villas Owner, as applicable, is deemed to have agreed to such Service Assessment by the act of subscribing to, requesting, or accepting the material or service. Service Assessment shall not include the System Assessment.
- 1.26 **"Structure"** shall mean something built or constructed, or any piece of work artificially built up or composed of parts joined together in some definite manner, the use of which requires a more or less permanent location on the ground, or which is attached to something having a permanent location on the ground. The term shall be construed as if followed by the words "or part thereof." The term includes, without limitation, all Living Units, swimming pools, spas, fences, flagpoles, antennas, basketball backboards, play equipment, and storage sheds.
- 1.27 **"Surface Water Management System Facilities"** shall mean without limitation, all inlets, ditches, swales, culverts, water control structures, retention and detention areas, ponds, lakes, floodplain compensation areas, wetlands and any associated buffer areas, and wetland mitigation areas.

- 1.28 **"System Assessment"** shall mean the System Assessment as provided and defined in Section 7.4 of this Declaration.
- 1.29 **"Tract"** shall mean any and all platted portions of the Community other than the Lots.
- 1.30 **"Turnover Date"** shall mean the time at which any of the events set forth in Section 4.1(B) of this Declaration occurs first.
- 1.31 **"Vienna Square"** is the name of the Community.
- 1.32 **"Villas"** shall mean the group of multi-family structures contemplated to be developed within a portion of the Community and to be commonly known as "The Villas at Vienna Square" and as more particularly discussed and addressed in this Declaration, including without limitation, Section 11 hereof.
- 1.33 **"Villas Architectural Review Committee" or "Villas ARC"** shall mean the Villas Architectural Review Committee as established and empowered in Section 11.3 of this Declaration.
- 1.34 **"Villas Assessment" or "Villas Assessments"** shall mean a share of the funds required for, including without limitation, the payment of the expenses of the Villas Association which from time to time are assessed against the Villas Members (hereinafter defined), including without limitation, annual Villas Assessments and special Villas Assessments as authorized by Section 11.8 of this Declaration.
- 1.35 **"Villas Association"** shall mean The Villas at Vienna Square Homeowners' Association, Inc., a Florida not for profit corporation, which has its principal place of business in Polk County, Florida, and its successors and assigns.
- 1.36 **"Villas Board of Directors"** shall mean the Board of Directors of the Villas Association.
- 1.37 **"Villas Covenants"** shall mean any and all covenants, conditions, restrictions, and other provisions imposed by recorded declaration or other instrument, applicable to the Villas Association, including but not limited to, the Governing Documents and the Articles of Incorporation and Bylaws of the Villas Association, all as they may be amended from time to time.

- 1.38 **"Villas Lands"** shall mean the land described in **Exhibit "B"** to this Declaration, as it may be amended from time to time.
- 1.39 **"Villas Member"** shall mean any or all of those persons who are entitled to membership in the Villas Association, as provided in the Villas Covenants.
- 1.40 **"Villas Owner"** shall mean the record owner of legal title to any Lot, Living Unit, Tract, or Parcel located in the Villas.
- 1.41 **"Villas Turnover Date"** shall mean the time at which any of the events set forth in Section 11.6(A)(ii) of this Declaration occurs first.
- 1.42 **"Villas Voting Interests"** shall mean the agreement established in the Bylaws of the Villas Association by which Villas Members are entitled to vote in the affairs of the Villas Association.
- 1.43 **"Voting Group"** shall mean a group of Members who are entitled to vote in the election of one (1) or more members of the Board of Directors, as more particularly described in Section 11.7 of this Declaration, and in a Supplemental Declaration to be recorded prior to the Turnover Date (hereinafter defined), as provided in Section 11.7 below.
- 1.44 **"Voting Interests"** shall mean the agreement established in the Bylaws of the Association by which Members are entitled to vote in the affairs of the Association.
2. **GENERAL DEVELOPMENT PLAN.** The Community is contemplated to be developed in phases. The primary development objective is the construction and development of single and multi-family dwelling units. Notwithstanding the foregoing, Declarant has the right, but not the obligation in its sole and absolute discretion, to further expand or reduce the Community or the Villas or both, including without limitation, by adding or deducting, as the case may be additional or existing land, or Living Units, or Lots, or recreational amenities or memberships. Notwithstanding the foregoing and any provisions contained herein, Developer shall not be obligated to add any additional phases to the Community or to the Villas. Developer shall have the right, in its sole and absolute discretion, to develop any undeveloped portion of the Lands as Developer so chooses and as permitted by law, including without limitation, as Lots, platted or unplatted, or for single-family or multi-family homes or commercial purposes incidental to such residential use.

- 2.1 **Renderings, Plans and Models.** From time to time, Declarant and others may present to the public certain renderings, plans and models showing possible future development of the Community. Declarant does not warrant in any way the concepts in these renderings, plans or models or how the future improvements in the Community will actually be developed. Any such renderings, plans or models are primarily schematic and in no way represent a guaranteed final development plan.
- 2.2 **Quiet Enjoyment.** Because of its size, the development of the Community will span a number of years. Incident to the development process, the quiet enjoyment of the Community will be unavoidably interfered with to some extent by construction operations.
3. **THE ASSOCIATION'S AND THE VILLAS ASSOCIATION'S PURPOSES AND POWERS.** One purpose of the Association is to hold title to, operate and maintain the Common Areas. One purpose of the Villas Association is to generally maintain the exterior of the Living Units in the Villas, subject to the terms and conditions of this Declaration. The primary purpose of the Association and the Villas Association is to enforce restrictive covenants applicable to the Community and the Villas, respectively, to provide architectural and aesthetic control and to take such other action as the Association or the Villas Association are authorized or required to take with regard to the Community pursuant to the Governing Documents or to the Villas pursuant to the Villas Covenants, respectively. The Association shall operate, insure, maintain and repair all property and related improvements owned by the Association as Common Areas.
- 3.1 **Common Areas.** The Association shall operate, maintain and hold record title to the Common Areas. The Board of Directors may promulgate reasonable rules and regulations regarding the use of the Common Areas consistent with the Governing Documents. Use of Common Areas shall be available to all Members and their invitees, guests, Family members and tenants, subject to any such rules and regulations, the Governing Documents and the Villas Covenants. The costs of operating, maintaining, repairing, insuring and protecting the Common Areas and the facilities located thereon or connected therewith shall be assessed equally against all Lots and Living Units.

BY ACCEPTANCE OF A DEED, EACH OWNER ACKNOWLEDGES THAT THE COMMON AREAS MAY CONTAIN WILDLIFE SUCH AS ALLIGATORS, DOGS, RACCOONS, SNAKES, DUCKS, DEER, SWINE, TURKEYS, AND FOXES. DECLARANT, DEVELOPER AND ASSOCIATION SHALL HAVE NO

RESPONSIBILITY FOR MONITORING SUCH WILDLIFE OR NOTIFYING OWNERS OR OTHER PERSONS OF THE PRESENCE OF SUCH WILDLIFE. EACH OWNER AND HIS OR HER GUESTS AND INVITEES ARE RESPONSIBLE FOR THEIR OWN SAFETY.

- 3.3 **Manager and Contracts.** The Association and the Villas Association, collectively or individually, may contract, employ and pay for the services of an entity or person to assist in managing its affairs and carrying out its responsibilities. The Association and the Villas Association, collectively or individually, may employ other personnel as the Association and the Villas Association shall determine to be necessary or desirable, including without limitation, a contractor to perform lawn maintenance services for the Lots, Living Units and Common Areas.
- 3.4 **Personal Property.** The Association and the Villas Association, collectively or individually, may acquire and hold tangible and intangible personal property and may dispose of the same by sale or otherwise.
- 3.5 **Insurance.** The Association and the Villas Association at all times shall procure and maintain adequate policies of public liability and other insurance as it deems advisable or necessary and as required in Section 12 below. The Association and the Villas Association additionally shall cause all persons with access to Association or Villas Association funds to be insured or bonded with adequate fidelity insurance or bonds to the extent required by applicable law.
- 3.6 **Express and Implied Powers.** The Association and the Villas Association may exercise any rights, power or privilege given to it expressly by the Governing Documents or the Villas Covenants, respectively, to the extent permitted by applicable law, and every other right, power or privilege that may be reasonably inferred therefrom.
- 3.7 **Acts of the Association and the Villas Association.** Unless the approval or affirmative vote of the Members or the Villas Members is specifically made necessary by some provision of applicable law, the Governing Documents, or the Villas Covenants, all approvals or actions permitted or required to be given or taken by the Association or the Villas Association may be given or taken by the Board of Directors or the Villas Board of Directors, respectively, without a vote of the Members or the Villas Members, as applicable. The officers and Board of Directors and the officers and Villas Board of Directors have a fiduciary relationship to the

Members and the Villas Members, respectively. Members and Villas Members do not have the authority to act for the Association or the Villas Association, respectively, by reason of being a Member or a Villas Member.

- 3.8 **Member and Villas Member Approval of Certain Litigation.** Notwithstanding any other provisions of the Governing Documents or the Villas Covenants, the Board of Directors and the Villas Board of Directors shall be required to obtain the prior approval of at least two-thirds (2/3) of all classes of the Voting Interests of the Association or the Villas Association, respectively, prior to the payment of, or contracting for the payment of, legal fees to any person engaged by the Association or the Villas Association for the purpose of commencing any lawsuit, other than for the following purposes:
- (A) the collection of Assessments;
  - (B) the collection of other charges which Members or Villas Members are obligated to pay;
  - (C) the enforcement of the Governing Documents or the Villas Covenants;
  - (D) in an emergency, when waiting to obtain the approval of the Members or the Villas Members creates a substantial risk of irreparable injury to the Association or its Members or the Villas Association or its Members; or
  - (E) filing a compulsory counterclaim.
- 3.9 **Articles of Incorporation.** The Articles of Incorporation of the Association shall be the Articles of Incorporation attached hereto as **Exhibit "C"** and incorporated herein by reference, as they may be amended from time to time.
- 3.10 **Villas Articles of Incorporation.** The Articles of Incorporation of the Villas Association shall be the Articles of Incorporation attached hereto as **Exhibit "D"** and incorporated herein by reference, as they may be amended from time to time.
- 3.11 **Bylaws.** The Bylaws of the Association shall be the Bylaws attached hereto as **Exhibit "E"** and incorporated herein by reference, as they may be amended from time to time.

- 3.12 **Villas Bylaws.** The Bylaws of the Villas Association shall be the Bylaws attached hereto as **Exhibit “F”** and incorporated herein by reference, as they may be amended from time to time.
- 3.13 **Official Records.** The official records of the Association and of the Villas Association shall be maintained within the State of Florida and must be open to inspection and available for photocopying by the respective Members or their authorized agents at reasonable times and places within ten (10) business days after receipt by the Association or the Villas Association, respectively, of a written request for access. Notwithstanding the immediately preceding sentence or anything to the contrary contained in this Section 3.13, a copy of the official records of the Association and of the Villas Association shall be maintained in the Community at a location determined by the Association and by the Villas Association, respectively, and shall be available for inspection and copying. The Association and the Villas Association may adopt reasonable written rules governing the frequency, time, location, notice and manner of inspection, and may impose fees to cover the costs of providing copies of the official records, including without limitation, the costs of copying. The Association and the Villas Association shall maintain an adequate number of copies of the recorded Governing Documents and Villas Covenants, respectively, to ensure their availability to their Members and prospective members, and may charge the actual costs for reproducing and furnishing said documents to those persons who are entitled to receive them.
- 3.14 **Treated Effluent.** The Developer, the Association, the Villas Association, or any combination thereof, may, but shall be under no obligation to, negotiate an agreement with any effluent supplier for the use of treated sewage effluent within the Community or the Villas, as applicable, for irrigation purposes throughout the Community or the Villas, as applicable, including all Common Areas, Lots and Living Units. The Association or the Villas Association, or both (or an entity or organization with which the Association or the Villas Association contracts) would be responsible for providing all on-site piping and plumbing facilities from the point of delivery to the Community or the Villas, as applicable, and negotiating with the effluent supplier to provide full or partial on-site storage facilities, as may be required by the Florida Department of Environmental Protection (“FDEP”) and other governmental agencies consistent with the volume of treated wastewater to be utilized. All Owners within the Community, and all Villas Owners within the Villas, by the act of purchasing, are deemed to have irrevocably consented to the irrigation of the Common Areas and Lots with treated effluent, provided that the effluent

emanates from an approved treatment plant with a current operating permit from FDEP, or other such agency with jurisdiction. The cost of such treated effluent and all administrative, operational, maintenance and support costs related to it, are expenses of the Association or the Villas Association, as applicable, but will be assessed to all the Lands by the Association or the Villas Association, as applicable, as part of the Assessments or the Villas Assessments, as applicable.

4. **ASSOCIATION MEMBERSHIP VOTING RIGHTS.** Every Owner of record legal title to a Lot or Living Unit within the Community shall be a Member as further defined in Section 4.1 below. Declarant shall hold Declarant membership as provided in Section 4.1(B) below. Membership is appurtenant to, and may not be separated from ownership of a Lot or Living Unit. The rights, powers, duties and privileges of Members shall be as set forth in this Declaration, and in the Articles of Incorporation and Bylaws of the Association.

- 4.1 **Classes of Membership.** Every Owner shall be a Member. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to Assessment. The Association shall initially have two (2) classes of voting membership, as follows:

- (A) Class A Members shall be all Owners, with the exception of Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as the Owners of each Lot shall determine, but in no event shall more than one (1) vote be cast with respect to any Lot. Any Member who is delinquent in the payment of any charges, Assessments or otherwise, duly levied by the Association or MX (in regards to the System Assessment) against the Lot shall not be entitled to vote until all such charges together with any penalties, as the Board of Directors may impose, have been paid. Class A Members shall be obligated to timely pay all charges, Assessments or otherwise, and annual dues in the amount established by the Board of Directors or MX (in regard to the System Assessment). A membership shall not be transferable other than through the sale or conveyance of the record legal title to the Lot or Living Unit to which it is appurtenant.
- (B) Class B Members shall consist of Declarant and its successors and assigns and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the

happening of any of the following events, whichever occurs earlier ("Turnover Date"):

- (1) three (3) months after Declarant has sold ninety percent (90%) of the Lots in the Community to Owners who are not a successor Developer; or
- (2) when Declarant, in its sole and absolute discretion, so determines.

Once the Turnover Date has occurred, Declarant shall record or cause to be recorded an instrument in the public records of the County, which expresses that the Class B membership has ceased and been converted to Class A membership.

Notwithstanding the foregoing and anything to the contrary contained herein, Declarant shall be entitled to elect all of the members of the Board of Directors until three (3) months after ninety percent (90%) of the Lots in the Community have been conveyed to Owners other than a successor Developer. Upon the occurrence of the date set forth in the immediately preceding sentence, Members other than Declarant shall be entitled to elect at least a majority of the members of the Board of Directors; however, Developer shall have the right (but not the obligation) to appoint at least one (1) member of the Board of Directors (so long as Developer holds for sale in the ordinary course of business at least five percent (5%) of the Lots in the Community).

All of the Declarant's other rights and privileges as Declarant, as set forth elsewhere in the Governing Documents and the Villas Covenants, shall continue as long as Declarant holds any property within the Community for sale in the ordinary course of business. If Declarant conveys undeveloped property within the Community to a successor Developer, Declarant may assign its Declarant membership and some or all of its voting rights and privileges to the successor Developer.

4.2 **Association Rights and Easements.** Members in good standing have the non-exclusive right to use the Common Areas subject to:

- (A) The right of the Association, by and through the Board of Directors, to adopt the annual budget and to determine the annual Assessment to be paid by

Members;

- (B) The right of the Association, by and through the Board of Directors, to charge any admission, use or other fees for any Common Areas as the Board of Directors may deem appropriate. The fees may, in the sole and absolute discretion of the Board of Directors be higher for non-owners than for Owners.
- (C) The right of the Association, by and through the Board of Directors, to suspend a Member's right to use Common Areas for a period during which any Assessment or charge against the Member's Lot or Living Unit remains unpaid and past due;
- (D) The right of the Association, by and through the Board of Directors, to dedicate or transfer all or any part of the Common Areas to any governmental agency, public authority or utility;
- (E) The right of the Association, by and through the Board of Directors, to grant easements over, across or through the Common Areas;
- (F) The right of the Association, by and through the Board of Directors, to open the Common Areas for use by non-members of the Association, or non-owners;
- (G) The right of the Association, by and through the Board of Directors, with the prior assent of a majority of the Voting Interests, to borrow money for the purpose of improving the Common Areas and in aid thereof, to mortgage the Common Areas;
- (H) The right of the Association, by and through the Board of Directors, to close or restrict access to the Common Areas for limited periods of time to conduct special events, including those intended primarily to benefit Developer or its sales efforts;
- (I) The provisions of the Governing Documents; and any rules and regulations governing use and enjoyment of the Common Areas adopted by the Association;

- (J) The right of the Association to dedicate or transfer ownership or control of all or any part of the Common Areas to any governmental agency, public authority or utility.

So long as there is a Declarant Member, any and all rights of Members, and any and all restrictions, limitations, conditions and rules and regulations that a Member shall be subject to, shall not be amended without the prior written consent of Declarant, which consent shall be in Declarant's sole and absolute discretion. Declarant hereby reserves an easement over, across, through and under the Common Areas for the purposes of, including without limitation, ingress and egress and for other purposes incidental to the development of the Community. The easement reserved in this paragraph shall be effective whether or not shown on any plat of the Community.

- 4.3 **Delegation of Use Rights in Common Areas.** Guests accompanied by a Member shall have the right to use the Common Areas, but only to the extent provided in the Governing Documents or any other rules or regulations promulgated by the Association, and subject to the conditions, limitations and restrictions as may be stated therein. A fee may be imposed for such usage delegation, not necessarily limited by or related to the cost of processing the delegation. Each Member shall be financially and legally responsible to the Association for the actions and debts to the Association of any person to whom the Member has delegated his right to use the Common Areas. The Member may not delegate the obligation to pay Assessments. Upon the Lease of a Lot or Living Unit to which a membership is appurtenant, the lessor may retain the right to use the membership (i.e., Common Areas/facilities), in which case the tenant shall have no such rights. If a Member delegates his privileges to a tenant residing in his Living Unit, the Member shall not be entitled to use of the Common Areas/facilities during the period of the delegation.

- 4.4 **Separation of Ownership.** The ownership of a Lot, and the ownership of the Living Unit constructed thereon, may not be separated or separately conveyed, nor may any person who does not own record legal title to at least one (1) Lot, Living Unit, Tract or Parcel hold membership in the Association.

## 5. **GENERAL COVENANTS AND USE RESTRICTIONS.**

- 5.1 **Subdivision and Regulation of Land.** No Lot or Living Unit may be divided or subdivided without the express written consent of Declarant. No Owner, the Association or the Villas Association shall initiate, undertake or attempt to

inaugurate or implement any variation from, modification to, or amendment of any governmental plans, land development regulations, development orders or development permits applicable to the Community, or to any Lot, Tract or Parcel, without the prior written approval of Declarant, which approval may be denied at the sole and absolute discretion of Declarant. Nothing herein is intended to prohibit judicial partition of a Lot or Living Unit owned by two (2) or more persons.

**5.2 Surface Water Management System Facilities.**

- (A) No construction activities may be conducted relative to any portion of the Surface Water Management System Facilities. Prohibited activities include, but are not limited to: digging or excavation, depositing fill, debris or any other material or item; constructing or altering any water control structure; or any other construction to modify the Surface Water Management System Facilities. If the Community includes a wetland mitigation area (as defined in SWFWMD rules), or a wet detention pond, no vegetation in these areas shall be removed, cut, trimmed or sprayed with herbicide without specific written approval from SWFWMD. Construction and maintenance activities which are consistent with the design and permit conditions approved by SWFWMD in the environmental resource permit pertaining to the Community ("Environmental Resource Permit") may be conducted without specific written approval from SWFWMD.
- (B) The Association is responsible for the operation and maintenance of the Surface Water Management System Facilities. Operation and maintenance and reinspection reporting shall be performed in accordance with the terms and conditions of the Environmental Resource Permit.
- (C) SWFWMD has the right to take enforcement measures, including a civil action for injunction, penalties, or both, against the Association to compel it to correct any outstanding problems with the Surface Water Management System Facilities.
- (D) If the Association ceases to exist, all of the Owners shall be jointly and severally responsible for operation and maintenance of the Surface Water Management System Facilities in accordance with the requirements of the Environmental Resource Permit, unless and until an alternate entity assumes responsibility as allowed by and pursuant to applicable law. Notwithstanding

the immediately preceding sentence, the Villas Association is hereby expressly authorized to provide for the operation and maintenance of the Surface Water Management System Facilities in the event the Association ceases to exist.

- (E) If there is on-site wetland mitigation (as defined in SWFWMD rules) which requires ongoing monitoring and maintenance, the Association shall allocate sufficient funds in its budget for monitoring and maintenance of the wetland mitigation areas each year until SWFWMD determines that the areas are successful in accordance with the Environmental Resource Permit.
- (F) The Surface Water Management System Facilities are located on land that is designated common property on the plat of the Community, are located on land that is owned by the Association or are located on land that is subject to an easement in favor of the Association and its successors.

**5.3 Lakes and Water Retention Ponds.**

- (A) Except as set forth in this Section 5.3, no Structure of any kind (including docks) shall be constructed or erected in or on, nor shall an Owner in any way change, alter, impede, revise or otherwise interfere with the flow or volume of water in any portion of any water management area, including but not limited to, the Surface Water Management System Facilities, and lakes, ponds, swales, drainage ways, or wet retention ponds or areas intended for the accumulation of runoff waters (to the extent same are not included within the definition of Surface Water Management System Facilities), without the specific written permission of Declarant.

BY ACCEPTANCE OF A DEED TO A LIVING UNIT OR LOT, EACH OWNER ACKNOWLEDGES THAT THE WATER LEVELS OF ALL WATERBODIES MAY VARY. THERE IS NO GUARANTEE BY DEVELOPER, THE ASSOCIATION OR THE VILLAS ASSOCIATION THAT WATER LEVELS WILL BE CONSTANT OR AESTHETICALLY PLEASING AT ANY PARTICULAR TIME; AT TIMES, WATER LEVELS MAY BE NONEXISTENT.

- (B) No Owner or other person shall unreasonably delay or prevent access to water management areas for maintenance, repair or landscaping purposes by

Declarant, the Association or any appropriate governmental agency that may reasonably require access. Nonexclusive easements therefor are hereby specifically reserved and created.

- (C) No Lot, Tract or Parcel shall be increased in size by filling in any lake, pond or other water retention or drainage areas which it abuts. No person other than Declarant or the Association, as applicable, shall fill, dike, rip-rap, block, divert or change the established water retention and drainage areas that have been or may be created without the prior written consent of Declarant. No person other than Declarant may draw water for irrigation or other purposes from any lake, pond or other water management area.
- (D) The Conservation Areas, if any, will be the ultimate responsibility of the Association.

NO PERSON OTHER THAN THE ASSOCIATION (SUBJECT TO AUTHORIZATION BY DECLARANT PRIOR TO THE TURNOVER DATE, IF NECESSARY) MAY REMOVE NATIVE VEGETATION THAT MAY BECOME ESTABLISHED WITHIN THE CONSERVATION AREAS. "REMOVAL" INCLUDES DREDGING, APPLICATION OF HERBICIDE, PULLING AND CUTTING.

- (E) Nothing in this Section 5.3 shall be construed to allow any person to construct any new water management facility, or to alter the Surface Water Management System Facilities or Conservation Areas, without first obtaining the necessary permits from all governmental agencies having jurisdiction, including SWFWMD.

**LOTS MAY CONTAIN OR ABUT CONSERVATION AREAS, WHICH ARE PROTECTED UNDER APPLICABLE ENVIRONMENTAL PERMITS. THESE AREAS MAY NOT BE ALTERED FROM THEIR PRESENT CONDITIONS EXCEPT IN ACCORDANCE WITH THE RESTORATION PROGRAM INCLUDED IN THE ENVIRONMENTAL RESOURCE PERMIT OR GOVERNMENTAL REGULATIONS, OR TO REMOVE EXOTIC OR NUISANCE VEGETATION, INCLUDING WITHOUT LIMITATION MELALEUCA, BRAZILIAN PEPPER, AUSTRALIAN PINE, JAPANESE CLIMBING FERN, CATTAILS, PRIMROSE WILLOW,**

**AND GRAPE VINE. DECLARANT OR THE ASSOCIATION SHALL  
INSTALL AND MAINTAIN AS NECESSARY, SIGNAGE REQUIRED  
BY ANY ENVIRONMENTAL PERMIT.**

- 5.4 **Conservation Areas.** The Association shall be responsible for the maintenance and regulatory compliance of all Conservation Areas in the Community, regardless of where located, in accordance with rules, regulations and permitting requirements set forth by the County and other permitting agencies, including SWFWMD. No person shall undertake or perform any activity in the Conservation Areas described in the approved permits or plats of the Community, or remove native vegetation that becomes established within the Conservation Areas. Prohibited activities within Conservation Areas include the removal of native vegetation, excavation, placement or dumping of soil, trash or land clearing debris and construction or maintenance of any building, Living Unit or other structure. "Removal of native vegetation" includes dredging, application of herbicides and cutting.
- 5.5 **Open Space.** Any land subjected to this Declaration and designated as open space, landscape buffer, preserve area, Conservation Area or words of similar import on any plat, declaration of covenants and restrictions, site plan, permit or other document shall be preserved and maintained by the owner of such land as open space. If such land or an easement over such land has been conveyed or dedicated to the Association or to the Villas Association, the Association or the Villas Association, respectively, shall preserve and maintain such land. No development may occur on such land except structures or improvements which promote the use and enjoyment of the land for open space purposes.
- 5.6 **Lawns, Landscaping, Irrigation Systems.** Except for designated Conservation Areas, buffer zones, open space or similar areas, all areas not covered by Structures, walkways or paved parking facilities shall be maintained by the Association, or by the Villas Association, as applicable (and as further outlined in Section 11.9 with respect to the Villas Association), as lawn or landscaped areas to the pavement edge of any abutting streets and the waterline of any abutting lakes, canals or water management areas. Such maintenance by the Association, or the Villas Association, as applicable (and as further outlined in Section 11.9 with respect to the Villas Association) shall include, but shall not be limited to cutting, edging and fertilizing the lawn. Notwithstanding the immediately preceding sentence, each Owner shall be solely responsible for maintaining the trees and hedges (including, without limitation, the trimming of such trees and hedges) and the plant beds (including,

without limitation, the weeding of such plant beds) located on the Owner's Lot. In the event any Owner does not maintain said trees and hedges or plant beds on the Owner's Lot, the Association shall be permitted to enter onto the Owner's Lot and perform such maintenance and all costs associated with such maintenance shall be borne by Owner and shall be a special Assessment against that Owner. The Association, through its duly authorized agents and employees, shall have an easement over, through and across all Lots, and the right to enter upon all Lots at reasonable hours to perform the maintenance as contemplated in this Section 5.6, and such entry onto the Lots is hereby expressly permitted and authorized and shall not constitute a trespass. Stone, gravel or paving may not be used as a substitute for grass in a lawn. Certain areas as determined by Developer shall remain in a natural or unimproved state. All lawns and landscaping shall be completed at the time of completion of the Structures, namely the Living Unit, as evidenced by the issuance of a Certificate of Occupancy by the appropriate governmental agency, and shall thereafter be kept in good condition by the Owner or by the Villas Association, as applicable (and as further outlined in Section 11.9 with respect to the Villas Association). Lawns must be regularly cut and mulched areas regularly re-mulched. The irrigation lines to each Lot line located in any area of the Community, not within the Villas, shall be the responsibility of the Association, to the extent the irrigation lines are not dedicated to any governmental body or entity by Developer. The components of the irrigation system on each Lot, located in any area of the Community, not within the Villas, including but not limited to the tap into the main line, timers, switching devices and heads shall be the responsibility of the Lot Owner. Developer, until Developer owns no Lots in the Community, and the Association thereafter, shall have the right, at its sole and absolute discretion to adopt a schedule of irrigation times and duration of irrigation, subject to the direction of SWFWMD.

- 5.7 **Maintenance of Premises.** Except for Conservation Areas and other areas designated by Developer or the PD to remain in a natural state, no high weeds, underbrush, high grass or other unsightly vegetation shall be permitted to grow or remain upon any Lot and no refuse or waste shall be allowed to be placed or suffered to remain upon any Lot, except that while Developer or its affiliates are constructing improvements within the Community, the foregoing shall not be applicable except as to Lots sold to Owners other than a successor to Developer. If an Owner or the Villas Association, permits such weeds, high grass, underbrush or other unsightly growths, and fails to correct same after five (5) days notice by the Association, the Association shall have the right to enter upon the premises and make such corrections and shall charge the Owner or the Villas Association, as applicable, for the cost of

the corrections. Said charge, until paid, shall be a lien against the offending Lot. All lawns, landscaping and sprinkler systems and all Structures, improvements and appurtenances shall at all times be kept in safe and attractive condition, and all Structures shall be maintained in a finished, painted and attractive condition. The Association shall maintain all utility lines and roadways, which are not dedicated to any governmental body or entity, within the Community to the extent necessary to maximize their useful life.

- 5.8 **Sidewalks.** Declarant may construct sidewalks in various locations within the Community for pedestrian traffic in its sole and absolute discretion.
- 5.9 **Litter.** In order to preserve the beauty of the Community, no garbage, trash, refuse or rubbish shall be deposited, dumped or kept within the Community except in closed containers, dumpsters or other garbage collection facilities deemed suitable by Declarant, or in proper-sized, closed plastic bags for curbside pickup as required. All containers, dumpsters and other garbage collection facilities shall be screened from view, kept in a clean condition, and without noxious or offensive odors emanating. Notwithstanding the two (2) immediately preceding sentences, while Developer or its affiliates are constructing improvements within the Community, this Section 5.9 shall not be applicable to Developer but shall be applicable as to Lots sold to Owners other than a successor Developer.
- 5.10 **Walls, Fences, Hedges, etc.** Unless approved in writing by Declarant, which approval shall be in Declarant's sole and absolute discretion, no wall, fence, hedge or other divider shall be constructed or maintained above the ground level of any adjoining Lot. No wall, fence, or hedge shall be constructed on any Lot unless its height, length, type, design, composition, material and location shall have first been approved in writing by Declarant, and subsequently the Association following the Turnover Date. Height shall be measured from the finished grade of adjoining developed property. Any dispute as to height, length, type, design, composition or material shall be resolved by Declarant, whose decision shall be final. Approval may not be given for the construction of any wall, fence or hedge which materially interferes with the water view of any Lot or Living Unit.
- 5.11 **Driveways and Parking Areas.** Driveways and parking areas shall be paved with paver blocks or other hard surfaces approved by Declarant. Maintenance and repair of all roadways, driveways, parking and other paved parking facilities owned by the

Association shall be the responsibility of the Association. Driveways must be kept clean and free from excessive oil, rust or other unsightly stains.

- 5.12 **Color.** No exterior colors on any Structure shall be permitted that, in the judgment of Declarant, would be inharmonious, discordant or incongruous with the Community or the Villas. The initial exterior color and design of Structures shall be as approved by Declarant.
- 5.13 **Underground Utilities.** No lines or wires for communication or the transmission of current shall be constructed, or placed or permitted to be placed within the Common Areas unless the same shall be protected cables; all such lines or wires which are not located in buildings shall be constructed or placed and maintained underground, unless otherwise approved in writing by Declarant. No water pipe, gas pipe, sewer pipe, drainage pipe or storage tank shall be installed or maintained above the surface of the ground except hoses and movable pipes used for irrigation purposes.
- 5.14 **Water Supply; Wells; Water Rights.** Each Living Unit may be equipped with dual water lines, one of which shall be designated to utilize non-potable water in the sole and absolute discretion of Declarant. A Lot Owner may be required to use non-potable water for irrigation purposes if required by the laws or regulations of any governmental entity or agency or Declarant. All underground irrigation systems, if required by the laws or regulations of any governmental entity or agency to use non-potable water, must be connected to the non-potable water line and all outside spigots must be connected to the non-potable water line. Each Owner shall be required to connect the water lines on his Lot to the lines of the utility providers providing potable water service to the Community. No Owner may install or operate a private well. Declarant, its heirs, successors or assigns shall have the exclusive right to develop and utilize the ground and surface water resources of the Lands for any legal purpose, including the transport and use of such waters within the Community and beyond the Lands; and the conveyance of any Lot or Living Unit by Declarant does not include the right to develop or utilize any ground water or sub-surface water resources within such Lot or Living Unit.
- 5.15 **Temporary Factory-Built or Existing Structures.** No structure of any kind of what is commonly known as "factory-built," "modular" or "mobile home" type construction shall be erected without the prior written permission of Declarant, which permission shall be in Declarant's sole and absolute discretion. No tent, trailer or

temporary structure other than those used by Declarant for construction and sales activities shall be permitted unless its size, appearance and temporary location on a Lot have first been approved by Declarant.

- 5.16 **Antennas and Flagpoles; Display of Flags.** No outside television, radio, or other electronic towers, aerials, antennae, satellite dishes or device of any type for the reception or transmission of radio or television broadcasts or other means of communication shall hereafter be erected, constructed, placed or permitted to remain on any Lot or Tract or upon any improvements thereon, unless expressly approved in writing by Declarant except that this prohibition shall not apply to those antennae specifically covered by the federal Telecommunications Act of 1996, as amended from time to time. Developer, until it owns no Lot in the Community and then the Association may adopt and enforce reasonable rules limiting installation of permissible dishes or antennae to side or rear yard locations, not visible from the street or neighboring properties, and integrated with the Living Unit and surrounding landscape, to the extent that reception of an acceptable signal would not be unlawfully impaired by such rules. Antennae shall be installed in compliance with all federal, state and local laws and regulations, including zoning, land use and building regulations. In accordance with the laws of the State of Florida and notwithstanding anything to the contrary contained herein, any Owner may display one portable, removable United States flag or official flag of the State of Florida in a respectful manner, and on Armed Forces Day, Memorial Day, Flag Day, Independence Day, and Veterans Day may display in a respectful manner portable, removable official flags, not larger than 4 ½ feet by 6 feet, which represent the United States Army, Navy, Air Force, Marine Corps or Coast Guard. The rights of Owners to display flags, such as those rights set forth in this Section 5.16, shall be subject to and in accordance with the laws of the State of Florida as they exist on the date of recording of this Declaration or as they may subsequently be amended from time to time without the necessity of further amendment to this Declaration. An approved flagpole shall not be used to mount an antenna. This provision is intended to protect residents from unreasonable interference with television reception, electronic devices, and the operation of home appliances, which is sometimes caused by the operation of ham radios, CB base stations or other high-powered broadcasting equipment. This Section 5.16 shall not apply to Declarant.
- 5.17 **Outdoor Equipment.** All garbage and trash containers, oil tanks, bottled gas tanks, swimming pool and spa equipment and housing and sprinkler pumps and other such outdoor equipment shall be underground, or placed in areas not readily visible from

adjacent streets, or adequate landscaping must be used as screening around these facilities and maintained by the Owner or the Villas Association.

- 5.18 **Clothes Drying Area.** No outdoor clothes drying areas shall be allowed unless its location and design are approved in writing by the Association or by the Villas Association, as applicable.
- 5.19 **Lighting.** All exterior lighting of Structures, specifically Living Units, or landscaping shall be accomplished in accordance with plans approved in writing by Declarant. Except as may be initially installed or approved by Declarant, no spotlights, floodlights or similar high intensity lighting shall be placed or utilized upon any Lot which in any way will allow light to be reflected on any other Lot or the improvements thereon, or upon any Common Areas or any part thereof, without the approval of the Association or the Villas Association, as applicable. Other types of low intensity lighting, including normal and customary Christmas or other holiday decorations, which do not unreasonably disturb other Owners or Occupants of the Community, shall be allowed. The Association or the Villas Association, as applicable, may require the removal of any lighting that creates a nuisance (e.g. unacceptable spillover on an adjacent Living Unit).
- 5.20 **Air Conditioners and Heating Units.** Wall or window air conditioning or heating units are not permitted.
- 5.21 **Solar Collectors; Roof Vents.** Solar collectors, roof vents and other installations on the roofs of Structures are prohibited, except as may be permitted by Florida law. Notwithstanding the foregoing, initially Declarant, and subsequently the Association and ARC or Villas Association and Villas ARC, as applicable, in order to promote and preserve the architectural uniformity and aesthetic appearance of the Community and the Villas shall have the right pursuant to Florida law to determine the specific location where solar collectors, roof vents and other installations may be installed on the roofs of Structures provided that such determination does not impair the effective operation of the solar collectors, roof vents, and other installations on the roofs of Structures.
- 5.22 **Signs.** No signs, banners, billboards or advertisements of any kind, specifically including without limitation, those of realtors, politicians, contractors or subcontractors, shall be erected or displayed anywhere within the Community, including without limitation, in windows or garages of Living Units and on motor

vehicles, except that Declarant or a realtor chosen by Declarant in its sole and absolute discretion shall have the right to erect signs as it, in its discretion, deems appropriate. If any sign is erected in violation of this provision, Declarant, the Association or the Villas Association, collectively or individually, and as the case may be, shall have the right to enter the property on which the sign is located and remove it, as well as to levy a fine of One Hundred and No/100 Dollars (\$100.00) per day for each day's violation and suspend the violator's use privileges of the Common Areas. Said action to enter the property and remove the sign, if necessary, shall be deemed expressly permitted by the Owner of the property on which the sign is located. The foregoing shall not apply to signs, banners, flags, billboards or advertisements used or erected by Declarant, nor to entry and directional signs installed by Declarant, and signs required by law.

5.23 **Trucks, Commercial Vehicles, Recreational Vehicles, Motor Homes, Mobile Homes, Boats, Campers, Trailers and Other Vehicles.**

- (A) No commercial vehicle of any kind shall be parked in the Community except for construction or service vehicles temporarily present on business.
- (B) No boats, boat or utility trailers, semi-tractor trailers, house trailers of any kind, campers (pop-up or otherwise), mobile homes, recreational vehicles, buses, truck campers, disabled vehicles, inoperative vehicles, unlicensed vehicles, or vehicles in disrepair or showing rust or needing paint, may be parked or kept in the Community unless kept fully enclosed inside a Structure ("Restricted Vehicles"). For purposes of this Section 5.23(B) only, an open carport shall not be deemed a Structure. Campers, buses, motor homes, recreational vehicles, truck campers, and the like are permitted to be parked in the Community temporarily for loading and unloading purposes only and in no event shall any vehicle be parked in any street other than on a temporary basis. Vehicles that are not Restricted Vehicles may be parked in the driveway of a Living Unit but such practice is discouraged because of the resulting aesthetic diminution of the Community. Developer, until it owns no Lots in the Community or in the Villas, and thereafter the Association and Villas Association, respectively, reserves the right to enact rules that would prohibit the parking of any vehicle in a Living Unit's driveway other than on a temporary basis. Notwithstanding the foregoing, Developer in its sole and absolute discretion, may, but is not obligated to: (1) designate a portion of the Community wherein homes will be constructed with a parking garage in

which a motor home or recreational vehicle may be parked; and (2) promulgate rules without amending this Declaration which would permit parking on driveways of Living Units by vehicles owned by Guests of any Owner. The rights of Developer set forth in the immediately preceding sentence shall exist for so long as Developer owns Lots in the Community and thereafter the Board of Directors or the Villas Board of Directors, as applicable, may promulgate such rules. Developer may in its sole and absolute discretion later amend this Declaration to reflect the Lot numbers where the type of parking garage and motor home or recreational vehicle parking described in (1) above is permitted. Motorcycles with appropriate noise arresting systems are allowed in the Community, however such motorcycles may be driven only for purposes of ingress and egress from outside the Community directly to the Living Unit and from the Living Unit to a location outside the Community. No work on any vehicle shall be permitted within the Community except in an enclosed Structure.

- (C) No motor vehicle shall be parked anywhere other than on paved or other areas designated for that purpose, or in garages. Parking on lawns or landscaped areas is prohibited. Further, no motor vehicle shall be parked in such a manner as to encroach into any portion of any street or gutter located in the Community or in the Villas.
- (D) No motor vehicle shall be used as a domicile or a residence, either permanent or temporary.
- (E) Paragraphs (A) through (D) shall not be deemed to prohibit any temporary facility permitted by Section 5.15 above.
- (F) Any vehicles parked in violation of this Section 5.23 shall be subject to being towed away at the owner's expense.

- 5.24 **Living Units; Residential Use; Realtors; Use of Sales Center and Clubhouse.** Each Living Unit shall be used as a single family residence and for no other purpose. No business or commercial activity shall be conducted in or from any Living Unit, nor may the address or location of the Living Unit be publicly advertised as the location of any business or commercial activity. This restriction shall not be construed to prohibit any Owner from maintaining a personal or professional library, from keeping personal, business or professional records in his Living Unit, or from

handling personal, business or professional telephone calls and written correspondence in and from his Living Unit. Such uses are expressly declared customarily incident to residential use. However, notwithstanding anything to the contrary set forth herein, for so long as Declarant owns any Lot in the Community, any Owner or Guest that is a realtor is expressly prohibited from engaging in business activities (from any location in the Community, including without limitation, the Common Areas and a Living Unit) pertaining to the sale or Lease of a Lot or Living Unit, including without limitation, the operation of an internet website or solicitation of Owners or prospective Owners, whether in person, or by telephone. For so long as Declarant owns any Lot in the Community, only realtors chosen by Declarant, in its sole and absolute discretion, shall be allowed entry into the Community and shall be permitted to conduct business activities pertaining to the sale or Lease of any Lot or Living Unit. Declarant may at its sole and absolute discretion utilize any of its property, including the sales center and clubhouse, if any, to conduct commercial activities of any kind.

- 5.25 **Developer Leasing.** Developer, in its sole and absolute discretion, is permitted to enter into lease back programs, guest house programs, or other lease programs, as part of its sales effort.
- 5.26 **Pets and Animals.** Not more than two (2) commonly accepted household pets such as a dog or cat, and reasonable numbers of tropical fish or caged birds may be kept on a Lot or in a Living Unit, subject to other reasonable regulation by the Association or the Villas Association, as applicable. Notwithstanding the foregoing, pets may be kept harbored in a Living Unit so long as such pets or animals do not constitute a nuisance. A determination by the Board of Directors or the Villas Board of Directors, as applicable, that an animal or pet kept or harbored in a Living Unit is a nuisance shall be conclusive and binding on all parties. When notice of removal of any pet is given by the Board of Directors or the Villas Board of Directors, the pet shall be removed within forty-eight (48) hours of the giving of the notice. All animals shall be leashed (if outdoors), or kept within the Living Unit and shall not be permitted to roam free. The Association and the Villas Association may restrict the walking of pets to certain areas. Owners must clean up after their pets and dispose of any waste in an appropriate manner, with said waste being disposed of at such Owner's Living Unit and not upon any other Owner's Lot, property owned by the Association, or Common Areas. Commercial activities involving pets, including without limitation, boarding, breeding, grooming or training are not allowed. The ability to keep a pet is a privilege, not a right. If in the opinion of the Board of

Directors or the Villas Board of Directors, as applicable, any pet becomes the source of unreasonable annoyance to others, or the Owner of the pet fails or refuses to comply with the restrictions herein, the Owner, upon written notice, may be required to remove the pet from the Community. Pets may not be left unattended or leashed in yards or garages or on porches or lanais.

- 5.27 **Nuisances and Violation of Law.** Nothing may or shall be done which is, or may become a source of unreasonable annoyance or nuisance to residents of the Community. Any question with regard to the interpretation of this Section shall be decided by Declarant so long as it owns any Lands in the Community and thereafter by the Association or the Villas Association whose decision shall be final. No Owner of a Living Unit may violate any local, state or federal laws or ordinances.
- 5.28 **Correction of Health and Safety Hazards.** Any conditions of the physical property which are reasonably deemed by the Board of Directors or the Villas Board of Directors to be an immediate hazard to the public health or safety may be corrected as an emergency matter by the Association or the Villas Association and the cost thereof shall be charged to the responsible Owner.
- 5.29 **Approval Rights and Assignment.** Subject to the immediately following sentence, Declarant shall have all rights to approve or disapprove any construction, alteration or other aspect of the physical property in the Community. At such time as neither Declarant nor any subsequent Developer hold any Lots or Living Units in the Community for sale in the ordinary course of business, or at such earlier time as Declarant may determine in its sole and absolute discretion, all rights of Declarant to approve or disapprove any construction, alteration or other aspect of the appearance of the physical property in (i) the portion of the Community which is not part of the Villas shall automatically devolve upon and be deemed assigned to the Association; and (ii) the portion of the Community which is the Villas shall automatically devolve upon and be deemed assigned to the Villas Association.
- 5.30 **Declarant's Exculpation and Use.** Declarant or any Developer may grant, withhold or deny its permission or approval in any instance where its permission or approval is permitted or required, without any liability of any nature or kind to any Owner, the Association, the Villas Association or any other person for any reason whatsoever, and any permission or approval granted shall be binding upon all persons. The use restrictions of this Section 5 shall not apply to any property owned by a Developer prior to its conveyance to an Owner other than a Developer.

5.31 **Intentionally Omitted.**

5.32 **Completion and Sale of Living Units.** No Owner (including any Owner that may be a realtor), Guest, tenant, invitee, person or entity whatsoever shall interfere with Developer's completion of Living Units or sales efforts pertaining to Living Units in the Community in any manner, including without limitation, approaching or otherwise communicating with any customer of Developer, or any customer of a realtor chosen by Developer in its sole discretion, within the Community, for the purpose of securing a sale or lease of any Living Unit or Lot located within the Community. WITHOUT LIMITING THE FOREGOING, EACH OWNER, BY ACCEPTANCE OF A DEED, AGREES THAT ACTIONS OF OWNERS MAY IMPACT THE VALUE OF LIVING UNITS; THEREFORE, EACH OWNER IS BENEFITTED BY THE FOLLOWING RESTRICTION: PICKETING AND POSTING OF NEGATIVE SIGNS IS STRICTLY PROHIBITED IN ORDER TO PRESERVE THE VALUE OF THE LIVING UNITS AND THE RESIDENTIAL ATMOSPHERE THEREOF. Any violation of this Section 5.32 shall result in a fine not to exceed Five Hundred and No/100 Dollars (\$500.00) per occurrence. Such fine shall be treated as a special charge due to Developer ten (10) days after written notice from Developer to the Owner of the imposition of the fine. If not paid by the due date the fine shall accrue interest at the highest rate allowed by law, and may itself be the subject of a late payment fee.

5.33 **Decorations.** No decorative objects, including, but not limited to, birdbaths, light fixtures, sculptures, statues, or weather vanes shall be installed or placed within or upon any portion of the Community without the prior written approval of the Association or the Villas Association, as applicable.

5.34 **Garbage Cans.** Trash collection and disposal procedures established by the Association and the Villas Association shall be observed. The Association and the Villas Association may, in the sole and absolute discretion of each, provide for garbage pick-up, in which event the cost of same shall be a portion of the Assessments or Villas Assessments, as applicable. Otherwise, the cost of trash collection and disposal shall be billed directly to each Owner of a Living Unit by the provider of such service. No outside burning of trash or garbage is permitted. No garbage cans, supplies or other similar articles shall be maintained at any Living Unit so as to be visible from outside the Living Unit, Lot or Parcel. Each Owner shall be responsible for properly depositing his garbage and trash in garbage cans and trash containers sufficient for pick-up by the appropriate collection agencies in accordance

with the requirements of any such agency. All such trash receptacles shall be maintained in a sanitary condition and shall be shielded from the view of adjacent properties and streets. Garbage cans and trash containers shall not be placed outside the Living Unit for pick-up earlier than 6:00 p.m. on the date preceding the pick-up, and must be returned to the Living Unit so that they are not visible from outside the Living Unit on the day of pick-up.

- 5.35 **Hurricane Shutters.** Any hurricane shutters or other protective devices visible from outside a Living Unit shall be of a type as approved in writing by the Association or the Villas Association, as applicable. Panel, accordion and roll-up style hurricane shutters may not be left closed during hurricane season (nor at any other time). Any such approved hurricane shutters may be installed or closed up to forty-eight (48) hours prior to the expected arrival of a hurricane and must be removed or opened within seventy-two (72) hours after the end of a hurricane watch or warning or as the Board of Directors or the Villas Board of Directors may determine otherwise. Except as the Board of Directors or the Villas Board of Directors may otherwise decide, shutters may not be closed at any time other than a storm event. Any approval by the Association or the Villas Association shall not in any way be deemed an endorsement of the effectiveness of hurricane shutters.

## 6. **ARCHITECTURAL AND AESTHETIC CONTROL**

- 6.1 **General.** Except for the initial construction of Living Units, Common Area facilities and related improvements by Developer and further subject to the provisions of Section 5.29, no building, Structure or other improvement shall be erected or altered, nor shall any grading, excavation, landscaping, change of exterior color or other work which in any way materially alters the exterior appearance of any Structure, Lot or Living Unit be performed without the prior written approval of Declarant, and ultimately the Association in accordance with Section 5.29 through the ARC. In obtaining said written approval, an Owner or any other person applying shall comply with all applicable requirements and procedures.
- 6.2 **Architectural Review Committee.** Subject to the provisions of Section 5.29, the architectural and aesthetic review and control functions of the Community shall be administered and performed by the ARC. The ARC shall consist of not less than three (3) individuals, who need not be Members. Initially the Developer, and subsequently the Board of Directors, shall have the right and authority to determine, including without limitation, the term of office, composition, compensation (if any),

qualifications and meeting procedures of the ARC.

6.3 **Powers.** Subject to the provisions of Section 5.29, the ARC shall have the power, subject to and limited by the guidelines of the approved regulatory permits, if any, of SWFWMD, the County, and the U.S. Army Corps of Engineers to:

- (A) Propose the adoption, modification or amendment by the Board of Directors, of written Design Review Guidelines which shall set forth such things as design requirements, landscape materials, construction standards and colors and materials which the ARC finds acceptable ("Guidelines"). The Guidelines shall be consistent with provisions of this Declaration, and shall not be effective until adopted by at least a majority of the Board of Directors at a meeting duly called and noticed. Notice of any adoption, modification or amendment of the Guidelines, including a verbatim copy of the proposed modification or amendment thereof, shall be mailed to the Villas Association at least thirty (30) days prior to the Board of Directors meeting at which such action is to occur;
- (B) Require submission to the ARC of complete plans and specifications for any building, Structure or other improvement proposed to be erected or altered, or any proposed grading, excavation, tree or other landscape material removal or installation, change of exterior color or other work which materially alters the exterior appearance of any Structure or Lot. The ARC may also require submission of samples of building materials or colors proposed for use on any Structure or Lot, and may require such additional information as may reasonably be necessary for the ARC to fully evaluate the proposed work;
- (C) Approve or disapprove the erection or alteration of any building, Structure or other improvement; or any grading, excavation, landscaping, change of exterior color or other work which in any way materially alters the exterior appearance of any Structure or Lot. All decisions of the ARC shall be forwarded in writing to the Board of Directors. Any person aggrieved by a decision of the ARC shall have the right to make a written appeal to the Board of Directors within thirty (30) days after notification of the decision. The determination by the Board of Directors, upon prompt review of any such decision, shall, in all events, be final, and shall not be unreasonably delayed;

- (D) Adopt procedures and a schedule of reasonable fees for processing requests for ARC review. Fees, if any, shall be payable to the Association, in cash or check, at the time the request is submitted to the ARC; and
  - (E) Adopt procedures for inspecting approved changes during and after construction, to ensure conformity with approved plans.
- 6.4 **Enforcement.** Any decisions of the ARC shall be enforced by the Association, and the Villas Association (to the extent applicable).
- 6.5 **Declarant's Rights.** Notwithstanding the foregoing, Declarant shall have the right, so long as any Developer is offering any property in the Community for sale in the ordinary course of business, to appoint all of the members of the ARC, or such lesser number as it may choose. During this time, Declarant shall also have the power, in its sole and absolute discretion to establish, amend or revoke any and all Guidelines.
7. **EASEMENTS AND SYSTEM ASSESSMENTS.** In addition to the easements created elsewhere herein, and those already of public record at the time this Declaration is recorded, easements are hereby provided for:
- 7.1 **Utilities, Services and Support.** Each Lot, Living Unit, Tract and Parcel and the Common Areas (except Conservation Areas) is and are hereby subjected to easements for private services, communications and telecommunications, and utilities purposes including but not limited to, fire, police protection and emergency services, garbage and trash removal, potable and non-potable water, sewage, telephone, electric and gas service, lake maintenance, and cable television. The utilities and governmental agencies having jurisdiction, and their employees and agents, shall have the right of access to any Lot, Living Unit, Tract, or Parcel or the Common Areas in furtherance of such easements. The easement areas on any Lot, whether or not shown on any plat, shall at all times be properly maintained by the Owner or the Villas Association, as applicable, whether or not the utility or service company maintains the easement area.
- (A) There is hereby reserved, for the purpose of installing, operating and maintaining utility facilities, and for other purposes incidental to the development of the Community, those easements described herein and those shown upon any plat or plats of the Community (which have been or will be recorded) and plat notes on such plat or plats, and there are also reserved such

easements and rights of way for any other purposes as Declarant in its sole and absolute discretion may in the future grant.

- (B) Declarant hereby reserves the right, and the power, during a period of fifteen (15) years from the date of recording this Declaration to declare, grant and record perpetual private or public easements for drainage facilities, sanitary sewer lines, potable and irrigation water lines, storm sewers, gas and electric lines, telephone and other telecommunication lines, cable television lines and such other service facilities as Declarant may deem necessary or desirable, along the various private or public utility service routes through, in, over and under all Lots, Tracts, Parcels and Common Areas. The purpose, duration and scope of any such easement shall be set forth in an instrument of public record. Said easements and the rights granted shall not be inconsistent with the then existing improvements on the applicable portions of the Lot, Parcel, Tract or Common Area, or materially change the rights of the Owners. If any agreement is entered into by the Association for the exclusive provision of System (hereinafter defined) services or other services to the Community, per either Section 7.2, 7.3, or both below, it shall be the affirmative obligation of the Association to grant all appropriate and reasonably necessary easements for the furnishing of those services; and upon the expiration or termination of such agreement, to provide subsequent or alternate easements so as to insure the continuous accessibility and availability to the Community of those services.

- 7.2 **System Assessment.** Each Owner acknowledges the existence of two (2) easements granted to MX Communication Services, LLC, a Florida limited liability company ("MX"), and recorded as follows in the public records of Polk County, Florida: Information Services and Easement Agreement, O.R. Book 7013, Page 1812; and Gas and Refuse Services and Easement Agreement, O.R. Book 7013, Page 1823. Declarant hereby reserves for itself, its affiliates, including without limitation MX, its successors, assigns and licensees, the right, without obligation, to construct or install over, through, under, across and upon any portion of the Community for the use and benefit of the Owners and authorized Guests, invitees, and tenants, one (1) or more cable and telecommunications receiving and distribution systems of any kind whatsoever and electronic surveillance systems, emergency, medical, security, and surveillance monitoring or alarm systems (all or any part of which shall be referred to herein collectively as the "System"), the exact description, location and nature of which may have not yet been fixed or determined. Declarant shall have and hereby

reserves to itself, its affiliates including without limitation MX, and its designees, successors, assigns and licensees, a perpetual and exclusive right, privilege, easement and right-of-way for the installation, construction and maintenance of the System (the scope, extent, size and location of which over, across, upon and through the Community shall be determined solely by Declarant, its successors, designees and assigns) together with the perpetual and exclusive right and privilege of:

- (A) Unlimited ingress and egress thereto for installing, constructing, inspecting, maintaining, altering, moving, improving and replacing the facilities and equipment constituting the System including, without limitation, any towers, antennas, conduits, wires, cables, lines, panels, boxes, housing, connections, insulators and amplifiers necessary or desirable to receive and distribute services of the System including, without limitation, cable television and radio signals, electronic banking, surveillance, house monitoring, fire, police and emergency medical protection.
- (B) Transmitting the facilities and equipment of which, shall be owned and exclusively controlled by Declarant, or MX, or their successors and assigns or its designees.
- (C) Each Lot and Living Unit is subject to a permanent easement in favor of adjoining or adjacent Lots and Living Units for lateral and subjacent support.
- (D) Each Lot and Living Unit is subject to a permanent easement in favor of the Association and the Villas Association, as applicable, to remove and destroy invasive exotic vegetation species.

7.3 **Contracts with Service Providers.** Declarant shall have the right to enter into contracts for the exclusive provision of the System as Declarant shall deem necessary, in its sole and absolute discretion. Declarant may receive valuable consideration for the grant of the exclusive right to provide System services. Should Declarant enter into a contract or contracts pursuant to this Section 7.3, the Association or the Villas Association, as applicable, shall, to the extent Declarant assigns its rights and obligations under such contract or contracts, accept such assignment, and is bound by all the terms and provisions of the contract or contracts.

7.4 **Collection of System Assessments and Initial System Assessments.** Each Lot or Living Unit after sale by Developer to a third party who is not a successor Developer

shall be subject to a perpetual System Assessment payable per Lot or Living Unit. MX shall bill the System Assessment to each Lot or Living Unit after the sale by Developer to a third party who is not a successor Developer. Developer, for home security, quality and uniformity purposes has chosen its affiliate, MX, to arrange for and supply through others home security monitoring and basic cable television services in the Community. The System for home security monitoring and basic cable television will be interfaced in order to provide the safest possible environment for the residents of the Community. At the time of recording this Declaration, the amount of the initial System Assessment (monthly and/or annual) has not been determined. However, Declarant and/or MX shall have the right (but not the obligation) to amend this Declaration to set forth the amount of the initial System Assessment (monthly and/or annual), along with the portion thereof allocated to basic cable television service and the portion thereof allocated to home security monitoring. The amount of the System Assessment allocated to basic cable television service may be increased from time to time at the sole and absolute discretion of MX or its assigns, but will not materially exceed rates for similar cable television services provided by BrightHouse Networks or its successors or assigns in other residential developments in the County. If BrightHouse Networks, or its successors or assigns, at some point in the future do not provide cable television services in the County, cable television service shall be at a reasonable rate determined by MX, its successors or assigns. The amount of the System Assessment allocated to home security monitoring may be increased from time to time at the sole and absolute discretion of MX, its successors or assigns, but will not materially exceed rates for home security monitoring companies providing similar services in the County, and will be determined in the reasonable discretion of MX. The provisions of this Declaration relating to MX cannot be modified or amended without the prior written consent of MX, its successors or assigns. Owners and the Association acknowledge that the provisions herein relating to the System Assessment for home security monitoring and cable television are unrelated to the operation, maintenance, or management of the Association or Common Areas, and further that the System Assessment is fair and reasonable. Each Owner acknowledges the receipt of consideration for agreeing to the System Assessment, including but not limited to, an initial three (3) months free basic cable television service and three (3) months free home security monitoring. Declarant reserves the right in perpetuity to amend the Governing Documents in any way convenient or necessary to MX for it to carry out its obligations hereunder and under any easements filed for its benefit in the public records of the County.

- 7.5 **Construction and Maintenance.** Declarant (including its designees and contractors) shall have the right to enter any part of the Community and take any action reasonably necessary or convenient for the purpose of completing the construction or sales thereof and for maintenance purposes and the completion of warranty work, provided such activity does not unreasonably and materially interfere with the use and enjoyment of the Living Units or Lots by Owners.

8. **COMMON AREAS; CONVEYANCE, USE AND MAINTENANCE.**

- 8.1 **Designation.** Declarant shall have the right, and the power, in its sole and absolute discretion, to determine which parts of the Community shall be Common Areas and to convey, dedicate, lease or grant a license or other right to use real property within the Community, to the Association as Common Areas.

(A) Any such conveyance, dedication, lease or grant of license or use right to the Association may be exclusive or non-exclusive, public or private, so that persons or entities other than the Association may or may not have a right, power, duty or privilege with respect to all or any part of any real property so conveyed, leased, licensed or the use of which has been granted. The Association must accept from Declarant any such conveyance, lease, grant of license or grant of use right. The Association shall not accept, from any person other than Declarant, a conveyance, dedication, lease, grant or license or grant of use right except upon the prior written approval of Declarant.

(B) The Association shall have the right to charge reasonable fees, rents, or other charges for the use of the Common Areas; however, rents, fees and other charges required to be paid to Declarant under leases, grants, licenses or contracts creating use rights to third parties shall continue to be paid.

- 8.2 **ALL CONSERVATION AREAS WITHIN THE COMMUNITY ARE THE PERPETUAL RESPONSIBILITY OF THE ASSOCIATION, AND EXCEPT AS OTHERWISE PROVIDED IN ANY CONSERVATION EASEMENT, THEY MAY IN NO WAY BE ALTERED FROM THEIR NATURAL STATE. ACTIVITIES PROHIBITED WITHIN THE CONSERVATION AREAS INCLUDE, BUT ARE NOT LIMITED TO, CONSTRUCTION OR PLACING OF BUILDINGS ON OR ABOVE THE GROUND; DUMPING OR PLACING SOIL OR OTHER SUBSTANCES SUCH AS TRASH; REMOVAL OR DESTRUCTION OF TREES, SHRUBS, OR OTHER VEGETATION,**

**EXCEPT REMOVAL OF EXOTIC/NUISANCE VEGETATION; EXCAVATION, DREDGING OR REMOVAL OF SOIL MATERIAL; DIKING OR FENCING; ANY OTHER ACTIVITIES DETRIMENTAL TO DRAINAGE, FLOOD CONTROL, WATER CONSERVATION, EROSION CONTROL, OR FISH AND WILDLIFE HABITAT CONSERVATION OR PRESERVATION.**

8.3 **Conveyance and Use.** Commencing with the date this Declaration is recorded in the public records of the County, the Association shall be responsible for the maintenance and administration of all areas and facilities designated by Declarant or Developer as Common Areas and for the payment of any ad valorem taxes properly payable from and after the date of such recordation. Declarant shall have the right from time to time to enter upon the Common Areas during periods of construction upon adjacent property and for the purpose of construction of any facilities on the Common Areas that Declarant elects to build.

- (A) Any real property conveyed, leased, or the use of which has been granted by Declarant or any third party to the Association as Common Areas is not and shall not be deemed dedicated for use by the general public but is, and shall be, deemed restricted for the common use and enjoyment of Members and their guests, tenants and invitees.
- (B) Declarant may convey property to the Association or to the Villas Association in either an improved or an unimproved condition, with or without any specific restrictions on its use, and the Association or the Villas Association must accept such property and may not reject same. The Association or the Villas Association shall not accept conveyance of real property from any third party, in either an improved or unimproved condition, without the prior written consent of Declarant, so long as Declarant owns any property in the Community.

**THE ASSOCIATION AND THE VILLAS ASSOCIATION AND THE NON-DECLARANT MEMBERS OF EACH ARE OBLIGATED TO ACCEPT THE COMMON AREAS AND FACILITIES IN THEIR "AS IS" CONDITION, WITHOUT RECOURSE, IF AND WHEN CONVEYED TO THE ASSOCIATION OR THE VILLAS ASSOCIATION BY DECLARANT. DECLARANT AND ANY DEVELOPER MAKES NO REPRESENTATIONS, AND TO THE FULLEST EXTENT PERMITTED BY LAW DISCLAIM ALL WARRANTIES EXPRESS OR IMPLIED, IN LAW OR IN FACT, WITH**

RESPECT THERETO, INCLUDING WITHOUT LIMITATION, REPRESENTATIONS OR WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, AND REPRESENTATIONS OR WARRANTIES REGARDING THE CONSTRUCTION, DESIGN, ADEQUACY OF SIZE OR CAPACITY IN RELATION TO THE UTILIZATION, DATE OF COMPLETION OR THE FUTURE ECONOMIC PERFORMANCE OR OPERATIONS OF , OR THE MATERIALS, FURNITURE OR EQUIPMENT WHICH WILL BE USED IN, THE COMMON AREAS AND FACILITIES. AT THE TIME OF CONVEYANCE, DECLARANT SHALL TRANSFER OR ASSIGN TO THE ASSOCIATION OR THE VILLAS ASSOCIATION, WITHOUT RECOURSE, EXISTING WARRANTIES IT RECEIVED FROM MANUFACTURERS AND SUPPLIERS RELATING TO ANY OF THE FACILITIES WHICH ARE ASSIGNABLE, IF ANY.

- 8.4 **Maintenance and Alteration.** The Association is responsible for the maintenance, repair, replacement, insurance, protection and control of all Common Areas in accordance with applicable laws, and shall keep the same in good, safe, clean, attractive and sanitary condition, and in good working order at all times. After control of the Association has been turned over to the Members there shall be no material alterations of or substantial additions to the Common Areas costing more than Ten Thousand and No/100 Dollars (\$10,000.00) in the aggregate during any fiscal year unless first approved by a majority of the Voting Interests of the Association.
- 8.5 **Partition, Subdivision and Encumbrance.** The Common Areas shall not be abandoned, partitioned, subdivided, alienated, released, transferred, hypothecated or otherwise encumbered, without first obtaining the approval of not less than a majority of the Voting Interests. The foregoing shall not be construed to limit the authority of Declarant or the Association through its Board of Directors to grant such easements over, across and through the Common Areas as may be necessary for the effective and efficient operation of the facilities or for the general benefit of the Members or as permitted herein. Nothing herein shall be construed to prohibit judicial partition of any Lot, Living Unit, Tract or Parcel owned in co-tenancy.
- 8.6 **Association's Rights and Powers.** No Common Areas owned by the Association shall be used in violation of any rule or regulation or other requirement of the Association established pursuant to the provisions of the Governing Documents.

- 8.7 **Expansion or Modification of Common Areas.** Additions or modifications to the Common Areas may be made if not inconsistent with the PD and any amendments thereto. Neither Declarant nor any Developer shall be obligated, however, to make any additions or modifications. Declarant further reserves the right to change the configuration or legal description of the Common Areas due to changes in development plans.

9. **ASSESSMENTS.**

- 9.1 **Creation of Lien.** Each Owner, by acceptance of a deed to a Lot or Living Unit, covenants and agrees to pay:
- (A) Annual Assessments to the Association.
  - (B) Special Assessments to the Association.
  - (C) Service Assessments and other fees or charges (including fines) imposed against one (1) or more Lots, Living Units, Tracts or Parcels, as provided for in the Governing Documents to the Association. Each Lot or Living Unit after sale by Developer to a third party who is not a successor Developer shall be subject to a Service Assessment payable per Lot or Living Unit for services performed.
  - (D) System Assessments to MX.
  - (E) Except as otherwise provided in Section 14.2 below as to certain Institutional Mortgagees, and except as provided in Section 9.2 below, as to Declarant and Developer, no Owner may avoid or escape liability for the Assessments or charges provided for herein by non-use or abandonment of his Lot, Living Unit, Tract, Parcel, or the Common Areas, or otherwise.
  - (F) Assessments shall be fixed, levied, established and collected as provided in the Governing Documents.
  - (G) The Owner of each Lot or Living Unit regardless of how title was acquired, is liable for all Assessments coming due while he is the Owner. Multiple Owners are jointly and severally liable. Except as provided in Section 14.2 below, whenever title to a Lot or Living Unit is transferred for any reason, the new Owner is jointly and severally liable with the previous Owner for all

Assessments unpaid at the time of the transfer, regardless of when incurred, without prejudice to any right the new Owner may have to recover from the previous Owner any amounts paid by the new Owner.

- (H) No land shall be subject to Assessment by the Association if it is a Common Area, or it is owned by or dedicated to the County, or other governmental agency, and used for a public purpose. Only Lots and Living Units shall be subject to Assessment.

9.2 **Declarant's Assessments.** The Assessment and lien provisions of this Section 9 shall not apply to any Lot, Living Unit, Tract or Parcel owned by Declarant or by any Developer succeeding to all or a portion of Declarant's rights herein, whether by assignment, in reorganization, or by other arrangement. Should Declarant's lender, its successors or assigns, acquire title to any Lot, Living Unit, Tract or Parcel owned by Declarant, as a result of a foreclosure or deed in lieu of foreclosure, the Assessment and lien provisions of this Section 9 shall not apply. The obligation and covenant of an Owner to pay Assessments as provided in this Section 9 shall, however, apply to a Living Unit or Lot owned by Declarant or a Developer upon the occurrence of any one of the following events:

- (A) Conveyance of the Lot or Living Unit to an Owner other than a Developer;  
or
- (B) Construction of a Living Unit has been completed, a certificate of occupancy or the equivalent approval by an appropriate local governmental agency has been issued, and the Owner has closed on the purchase of the Living Unit; or
- (C) Declarant executes and records a written instrument subjecting a Lot, Living Unit, Tract or Parcel to the Assessment and lien provisions of this Section 9.

Notwithstanding anything to the contrary contained herein, until the Turnover Date, Declarant covenants to subsidize the general operating expenses of the Association by contributing the difference, if any, between net operating expenses and all income of the Association including but not limited to Assessment income from Members other than Declarant, interest income and income from ancillary operations. Declarant, however, shall not be obligated to contribute to or pay for funding any reserves for capital expenditures or deferred maintenance, capital improvement fund, or special Assessment. Declarant's rights and obligations hereunder may be assigned to a Developer. During the period of Declarant control, in return for subsidizing the

general operating expenses of the Association, any net operating profit made by the Association will revert back to Declarant to offset existing and future capital improvements, operating expenses, support costs and start-up costs. Net operating profit shall mean the amount by which income from all sources of the Association exceeds operating costs and expenses, but excluding depreciation expense and amortization expense.

**9.3 Purposes of Assessments.**

- (A) To promote the recreation, health, safety and welfare of the Owners and residents of the Community;
- (B) For the improvement, maintenance, protection, security and operation of the Association, the Common Areas, the Conservation Areas, if any, the Association equipment and facilities and the Surface Water Management System Facilities, if necessary; and to establish and maintain adequate repair and replacement reserves, to the extent necessary and as may be required by applicable law;
- (C) For the maintenance of Lots, Common Areas and Conservation Areas by a lawn maintenance contractor contracted by Declarant or the Association as controlled by Declarant (so long as Declarant holds any property in the Community for sale in the ordinary course of business) and subsequently the Association, as applicable;
- (D) To provide utility, cable television and other systems of telecommunications services by bulk contract with third parties;
- (E) Where deemed desirable by Declarant (so long as Declarant holds any property in the Community for sale in the ordinary course of business) and subsequent thereto, the Board of Directors, to provide services of general benefit to the Owners and residents either on a Community-wide basis or otherwise, including without limitation, cable television, gas, refuse services, transportation, security or other services;
- (F) To pay the operating expenses of the Association; and
- (G) For such other purposes and uses as are authorized by the Governing Documents, as amended from time to time.

- 9.4 **Imposition of Annual Assessments.** Upon the closing of the initial sale of each Lot or Living Unit to a purchaser other than Declarant or a Developer, and on the first day of each fiscal year thereafter, an annual Assessment shall be assessed against each Lot or Living Unit. The annual Assessment for the year in which the initial sale occurred shall be prorated to the actual date of closing.
- 9.5 **Amount of Assessments.** The annual Assessments levied by the Board of Directors shall be assessed equally against all Lots and Living Units. The amount of the annual Assessment based on the annual budget shall be the same for each Lot or Living Unit subject to assessment except that until the Turnover Date Developer shall not be required to pay any Assessment so long as Developer pays any shortfall in the Association operating expenses in accordance with Section 9.2. At the time of recording this Declaration neither the amount of the initial Assessment per Lot nor the amount of the initial System Assessment per Lot has been determined. Declarant and MX (with regards to the System Assessment) shall have the right (but not the obligation) to amend this Declaration to provide for the amount of the initial Assessment per Lot and/or the initial System Assessment per Lot.
- 9.6 **Special Assessments.** Any special Assessments levied by the Board of Directors shall be assessed equally against all Lots and Living Units, unless the Assessment or portion thereof is intended specifically for the direct benefit of one or more classes of Members, in which case it shall be assessed against only the classes of Members directly benefitted. Under no circumstances shall Declarant or any Developer have any obligation to pay special Assessments.
- 9.7 **Charges.** Any charge by the Association authorized by law or by the Governing Documents to be imposed on less than all of the Lots or Living Units shall not be deemed an Assessment. Payment may be enforced as provided in Section 9.9 and 9.10 below.
- 9.8 **System Assessment.** The System Assessment for basic cable television and home security monitoring services as described in this Declaration, including without limitation, Section 7.2 and Section 7.4 hereof, shall not be modified by the Association without the prior written consent of MX, which consent MX may withhold in its sole and absolute discretion. MX shall have the right in the future to provide other System services and the Association shall make System Assessments for services not now assessed. MX shall have the right and power to fix, levy, collect and enforce the System Assessment, including without limitation, the right to perfect and foreclose a lien on each Lot and Living Unit for any unpaid past due System

Assessments. To the extent necessary, the Association joins in and is a party to this Declaration in order to evidence its agreement that MX shall have the right and power to fix, levy, collect and enforce the System Assessment, including, without limitation, the right to perfect and foreclose a lien on each Lot or Living Unit for any unpaid past due System Assessments. To the extent necessary, the Association hereby assigns to MX any rights and powers the Association may have with regard to the System Assessment, including without limitation, the right and power to fix, levy, collect and enforce the System Assessment, including without limitation, the right to perfect and foreclose a lien on each Lot or Living Unit for any unpaid past due System Assessments. Notwithstanding anything to the contrary contained herein, if at any time, MX is prohibited or prevented by law or otherwise, from fixing, levying, collecting and enforcing the System Assessment, including without limitation, perfecting and foreclosing a lien on each Lot or Living Unit for any unpaid past due System Assessments, the rights and powers pertaining to the System Assessment shall automatically devolve upon and be deemed assigned to the Association and the Association shall be obligated to fix, levy, enforce, collect and remit the System Assessment to MX.

- 9.9 **Lien.** The Association has a lien on each Lot and Living Unit for any unpaid past due Assessments and charges, together with interest, late payment penalties and reasonable attorneys' fees and costs incurred by the Association in enforcing this lien. The lien relates back to the date of recording this Declaration in the public records of the County; and is perfected by recording a Claim of Lien in the public records of the County, which Claim of Lien shall state the legal description of the property encumbered thereby, the name of the record owner, the amounts then due and the dates when due. The Claim of Lien must be signed and acknowledged by an officer or agent of the Association, and if it pertains to any unpaid past due System Assessments by an officer or agent of MX. The lien shall continue in effect until all sums secured by said lien have been fully paid, and the lien satisfied or discharged. The Claim of Lien shall secure all unpaid Assessments (or System Assessments in the case of MX) and charges, interest, costs and attorneys' fees which are due and which may accrue or come due after the recording of the Claim of Lien and up to the issuance of a clerk's deed. Upon full payment, the person making payment is entitled to a satisfaction of the lien. MX has a lien on each Lot and Living Unit for any unpaid past due System Assessments, together with interest, late payment penalties and reasonable attorneys' fees and costs incurred by MX in enforcing the lien.
- 9.10 **Foreclosure of Lien.** MX's or the Association's lien, as applicable, may be foreclosed by the procedures and in the manner provided by Florida law, as it may

be amended from time to time. The Association or MX may also bring an action at law against any Owner liable for unpaid charges or Assessments or System Assessments (in the case of MX). If final judgment is obtained, it shall include interest on the Assessment as above provided and reasonable attorneys' fees to be fixed by the Court, together with the costs of the action, and the prevailing party shall be entitled to recover reasonable attorneys' fees in connection with any appeal of such action.

- 9.11 **Subordination of Lien to Mortgages.** The lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage on a Lot. Sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the Assessment lien by such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof.
- 9.12 **Ownership.** Assessments and charges collected by or on behalf of the Association become Association property; no Owner has the right to claim, assign or transfer any interest therein except as an appurtenance to his Lot or Living Unit. No Owner has the right to withdraw or receive distribution of his share of the common surplus (including reserves), except as otherwise provided by law. System Assessments collected by or on behalf of MX become MX property; no Owner has the right to claim, assign or transfer any interest therein except as an appurtenance to his Lot or Living Unit.
- 9.13 **Streets.** Every Owner shall have a right and easement of enjoyment in and to the streets shown on any plat of the Community which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:
- (A) The right of the Association to assess to each Owner that Owner's pro rata share of the costs of repair, upkeep and replacement of the streets within the Community, except as limited herein.
  - (B) The right of the Association to dedicate or transfer all or any part of the streets to any public agency authorized for such purposes and subject to such conditions as may be agreed to by the Members, subject to Declarant's rights hereunder. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of the Members has been recorded.

10. **COVENANT AND RULE ENFORCEMENT: DISPUTE RESOLUTION.** The Association has the power to enforce all covenants, conditions, restrictions, rules and agreements applicable to any real property within the Community, and is further empowered to promulgate and enforce administrative rules and regulations governing the use of the Common Areas. The Villas Association has the power to enforce all covenants, conditions, restrictions, rules and agreements applicable to any real property within the Villas.

10.1 **Owner and Member Compliance.** The protective covenants, conditions, restrictions and other provisions of the Governing Documents and Villas Covenants and the rules promulgated by the Association and the Villas Association shall apply to all Owners, as applicable, as well as to any other person occupying any Living Unit. Failure of an Owner to notify any person of the existence of the rules, or the covenants, conditions, restrictions and other provisions of the Governing Documents or Villas Covenants shall not in any way act to limit or divest Declarant, a Developer, the Association or the Villas Association of the power to enforce these provisions. Each Owner shall be responsible for any and all violations by his tenants, licensees, invitees or guests, and by the licensees, invitees or guests of his tenants.

10.2 **Litigation.** Subject to the provisions of this Declaration above, each Member and the Member's tenants, guests, and invitees, and the Association and the Villas Association, are governed by and must comply with Chapter 720, Florida Statutes, Chapter 617, Florida Statutes, the Governing Documents and rules of the Association and the Villas Covenants and rules of the Villas Association, as applicable. Notwithstanding anything to the contrary contained herein, dispute resolution and the procedures pertaining thereto shall be subject to Section 720.311, Florida Statutes (2006), as it may be amended from time to time. Enforcement action for damages or injunctive relief, or both, on account of any alleged violation of the Governing Documents and Association rules and Villas Covenants and Villas Association rules, may be brought by Declarant, any Owner, the Association or the Villas Association against:

- (A) the Association;
- (B) a Member;
- (C) any Occupant of a Living Unit;
- (D) any member of the Board of Directors or Villas Board of Directors or officer of the Association or the Villas Association who willfully and knowingly

fails to comply with these provisions;

- (E) any tenants, guests or invitees occupying a parcel or using the Common Areas; and
- (F) the Villas Association when, and if, it fails to make a prompt and reasonable effort to enforce any restrictive covenants or affirmative obligations under provisions of this Declaration or the Villas Covenants, where such failure has or threatens to have a material adverse impact on the appearance of the Community or the operation of the Association.

The prevailing party in any such litigation is entitled to recover reasonable attorneys' fees and costs. This Section is not intended to deprive any person of any other available right or remedy. The enforcement of covenants, conditions, restrictions and agreements applicable to the Villas is primarily the function and duty of the Villas Association. It is the intent of this provision that the Association exercise its covenant enforcement powers with respect to the Villas Covenants only after the Villas Association has notice of the violation and has, after a reasonable time, been unable or unwilling to resolve the problem in a satisfactory manner.

- 10.3 **Damages and Attorneys' Fees.** Damages shall not be conclusively deemed adequate relief for any breach or violation of the Governing Documents, the Villas Covenants, or the rules. Any person or entity entitled to enforce any provision thereof shall be entitled to relief by way of injunction, as well as any other available relief either at law or in equity. The prevailing party in a proceeding to enforce any provision of the Governing Documents, the Villas Covenants or rules, or to enjoin violation or breach of any provision hereof, or recover damages on account of such breach against any person shall be entitled to recover reasonable attorneys' fees and court costs (including those resulting from appellate proceedings). Notwithstanding the foregoing or anything to the contrary contained herein, Developer, the Association (prior to the Turnover Date), the Villas Association (prior to the Villas Turnover Date) and MX shall be entitled to recover reasonable attorneys' fees and costs incurred in any effort to enforce the Governing Documents, the Villas Covenants or rules and regulations prior to suit being instituted against any person or entity in violation of or alleged to be in violation of the Governing Documents, Villas Covenants or rules and regulations.

10.4 **Non-Liability of Declarant.** Declarant shall not be liable or responsible for any violation of the Governing Documents, Villas Covenants or rules by any person other than itself, and its officers, agents and employees.

10.5 **Fines.**

(A) In addition to the means of enforcement provided elsewhere herein, the Association and the Villas Association shall have the right to assess fines against a Living Unit, Owner, or the guests, relatives or lessees of an Owner in the event of a violation of the provisions of the Governing Documents or the Villas Covenants and any rules and regulations of the Association or the Villas Association regarding the use of Living Units, Lots, Common Areas or Association or Villas Association property. Each such violator shall be given written notice of the alleged violation and the opportunity for a hearing before the Board of Directors or the Villas Board of Directors, as applicable, with at least fourteen (14) days notice. Said notice shall include a statement of the date, time and place of the hearing, a statement of the provisions of the Governing Documents or the Villas Covenants or rules and regulations which have been allegedly violated and a short and plain statement of the matters asserted by the Association or the Villas Association. The party against whom the fine may be levied shall have an opportunity to respond, to present evidence and to provide written and oral argument on all issues involved and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association or the Villas Association. The amount of such fine shall not exceed One Hundred and No/100 Dollars (\$100.00) per occurrence, or the maximum permissible by law, and each reoccurrence of the alleged violation for each day during which such violation continues shall be deemed a separate offense and may result in additional fines, without requirement of a separate hearing, such not to exceed the maximum permissible by law. The payment of fines shall be the ultimate responsibility of the Owner, even when the violations for which fines have been levied arise out of the conduct of Family members, Guests or tenants of such Owner. Any action to collect a duly levied fine shall entitle the prevailing party to an award of all costs and reasonable attorneys' fees.

(B) **Collection of Fines.** A fine shall be treated as a special charge due to the Association or the Villas Association ten (10) days after written notice from the Association or the Villas Association, as applicable, to the Owner of the

imposition of the fine. If not paid by the due date the fine shall accrue interest at the highest rate allowed by law, and may itself be the subject of a late payment fee.

- (C) Application. All monies received from fines shall become part of the common surplus.
- (D) Nonexclusive remedy. Fines shall not be construed to be an exclusive remedy; and shall exist in addition to all other rights and remedies to which the Association or the Villas Association may be otherwise legally entitled; however, any fine paid by the offending Owner shall be deducted from or offset against any damages that the Association or the Villas Association may otherwise be entitled to recover at law from such Owner.

10.6 Suspension of Use Rights. To the extent lawful, the Board of Directors may suspend the right of any Owner, or his Guests, tenants, or Family member, to use the Common Areas during any period of time the Owner shall have failed to pay any fine levied, or for a reasonable time as punishment for one or more infractions of Association rules and regulations by the Owner, his Family, Guests or tenants. No such suspension shall affect the Owner's right of access to his Living Unit or Lot.

- (A) A suspension may not be imposed without notice of at least fourteen (14) days to the person sought to be suspended and an opportunity for a hearing before a committee of at least three (3) members appointed by the Board of Directors who are not officers, members of the Board of Directors, or employees of the Association; or the spouse, parent, child, brother or sister of an officer, member of the Board of Directors, or employee. If the committee, by majority vote, which may be by secret ballot, does not approve a proposed suspension, it may not be imposed. Notwithstanding the foregoing, until the Turnover Date, Declarant shall have the right to appoint the committee, which may consist of officers, members of the Board of Directors or employees of the Association.
- (B) The requirements of the previous paragraph do not apply to the imposition of suspensions or fines upon any Member because of the failure of the Member to pay Assessments or other charges when due if such action is authorized by the Governing Documents.
- (C) Suspension of Common Area use rights shall not impair the right of an

Owner to have vehicular and pedestrian ingress to and egress from his Lot or Living Unit, including, but not limited to, the right to park.

## **11. VILLAS ASSOCIATION.**

This Section 11 applies only to the Villas Lands and the Villas Association. The Villas is a PD, which is contemplated to be developed in phases. The Villas may be used for those purposes provided in the PD, as modified from time to time. Declarant reserves the right and the power to assign and reassign various land uses within the Villas in accordance with the PD, or any variations from, modifications to or amendments of the PD and any other governmental plans, land development regulations, development orders and development permits applicable to the Villas.

11.1 **Enforcement of Covenants by Declarant.** As long as there is a Declarant Member or Declarant Villas Member, if the Villas Association fails to enforce any provisions of the Villas Covenants, or to perform any of its duties and responsibilities thereunder, Declarant may, in its sole and absolute discretion, enforce the Villas Covenants, and perform such duties and responsibilities, including any and all maintenance provisions, and shall be entitled to recover the costs and expenses (including attorneys' fees) of such enforcement or maintenance pursuant to the provisions of Sections 9 and 10 of this Declaration.

11.2 **Entry Rights.** The Villas Association and each Villas Owner shall permit Declarant, or any authorized agent or employee of Declarant or the Villas Association, to enter upon the Villas Owner's Lot at reasonable times, to carry out the provisions of this Declaration, and the entry shall not constitute a trespass. This provision shall not be construed as authorizing entry by Declarant into the interior of any Living Unit that is owned by a person other than Declarant, except in emergency.

### **11.3 Architectural and Aesthetic Control.**

(A) **General.** Except for the initial construction of Living Units and related improvements by Developer and further subject to the provisions of Section 5.29, no building, Structure or other improvement shall be erected or altered, nor shall any grading, excavation, landscaping, change of exterior color or other work which in any way materially alters the exterior appearance of any Structure, Lot or Living Unit in the Villas be performed without the prior written approval of Declarant, and ultimately the Villas Association in

accordance with Section 5.29 through the Villas ARC. In obtaining said written approval, a Villas Owner or any other person applying shall comply with all applicable requirements and procedures.

- (B) Villas Architectural Review Committee. Subject to the provisions of Section 5.29, the architectural and aesthetic review and control functions of the Villas shall be administered and performed by the Villas ARC. The Villas ARC shall consist of not less than three (3) individuals, who need not be Villas Members. Initially the Developer, and subsequently the Villas Board of Directors, shall have the right and authority to determine, including without limitation, the term of office, composition, compensation (if any), qualifications and meeting procedures of the Villas ARC.
- (C) Powers. Subject to the provisions of Section 5.29, the Villas ARC shall have the power, subject to and limited by the guidelines of the approved regulatory permits, if any, of SWFWMD, the County, the U.S. Army Corps of Engineers, and the PD to:
  - (i) Propose the adoption, modification or amendment by the Villas Board of Directors, of written Design Review Guidelines for the Villas which shall set forth such things as design requirements, landscape materials, construction standards and colors and materials which the Villas ARC finds acceptable ("Villas Guidelines"). The Villas Guidelines shall be consistent with provisions of the Governing Documents and Villas Covenants and shall not be effective until adopted by at least a majority of the whole Villas Board of Directors at a meeting duly called and noticed. Notice of any adoption, modification or amendment of the Villas Guidelines, including a verbatim copy of the proposed modification or amendment thereof, shall be mailed to the Association at least thirty (30) days prior to the Villas Board of Directors meeting at which such action is to occur;
  - (ii) Require submission to the Villas ARC of complete plans and specifications for any building, Structure or other improvement proposed to be erected or altered, or any proposed grading, excavation, tree or other landscape material removal or installation, change of exterior color or other work which materially alters the exterior appearance of any Structure or Lot in the Villas. The Villas

ARC may also require submission of samples of building materials or colors proposed for use on any Structure or Lot in the Villas, and may require such additional information as may reasonably be necessary for the Villas ARC to fully evaluate the proposed work;

- (iii) Approve or disapprove the erection or alteration of any building, Structure or other improvement in the Villas; or any grading, excavation, landscaping, change of exterior color or other work which in any way materially alters the exterior appearance of any Structure or Lot in the Villas. All decisions of the Villas ARC shall be forwarded in writing to the Villas Board of Directors. Any person aggrieved by a decision of the Villas ARC shall have the right to make a written appeal to the Villas Board of Directors within thirty (30) days after notification of the decision. The determination by the Villas Board of Directors, upon prompt review of any such decision, shall, in all events, be final, and shall not be unreasonably delayed;
  - (iv) Adopt procedures and a schedule of reasonable fees for processing requests for Villas ARC review. Fees, if any, shall be payable to the Villas Association, in cash or check, at the time the request is submitted to the Villas ARC; and
  - (v) Adopt procedures for inspecting approved changes during and after construction, to ensure conformity with approved plans.
- (D) Enforcement. Any decisions of the Villas ARC shall be enforced by the Villas Association, as well as by the Association (to the extent necessary and applicable).
- (E) Declarant's Rights. Notwithstanding the foregoing, Declarant shall have the right, so long as any Developer is offering any property in the Villas for sale in the ordinary course of business, to appoint all of the members of the Villas ARC, or such lesser number as it may choose. During this time, Declarant shall also have the power, in its sole and absolute discretion to establish, amend or revoke any and all Villas Guidelines.

11.4 Villas Covenants. Declarant reserves the right, and the power, without the consent of any other person being required:

- (A) To amend the specific provisions of this Declaration as they apply to the Villas; and
- (B) To supplement this Declaration by recording separate covenants, conditions, restrictions and other provisions applying to the Villas.

11.5 **Villas Association.** The Articles of Incorporation of the Villas Association and the Bylaws of the Villas Association shall not be inconsistent with the other provisions of this Declaration, except that any provisions relating to pets, parking, architectural controls, leasing and Guest occupancy may be more restrictive than those set forth in the Governing Documents.

11.6 **Villas Association Membership Voting Rights.** In addition to every Villas Owner being a Member, every Villas Owner shall also be a Villas Member as further defined and provided in Section 11.6(A) below. Declarant shall hold Declarant membership as provided for in Section 11.6(A)(ii) below. Membership is appurtenant to, and may not be separated from ownership of a Lot or Living Unit. The rights, powers, duties and privileges of Villas Members shall be as set forth in the Villas Covenants.

(A) **Classes of Membership.** Every Villas Owner shall be a Villas Member. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to Assessment. The Villas Association shall initially have two (2) classes of voting membership, as follows:

- (i) Class A Villas Members shall be all Villas Owners with the exception of Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be Villas Members. The vote for such Lot shall be exercised as the Villas Owners of each Lot shall determine, but in no event shall more than one (1) vote be cast with respect to any Lot. Any Villas Member who is delinquent in the payment of any charges, Villas Assessments or otherwise, duly levied by the Villas Association or MX (in regard to the System Assessment) against the Lot shall not be entitled to vote until all such charges together with any penalties, as the Villas Board of Directors may impose, have been paid. Class A Villas Members shall be obligated to timely pay all charges, Villas Assessments or otherwise, and annual dues in the amount established by the Villas Board of Directors or MX (in regard

to the System Assessment). A Villas membership shall not be transferable other than through the sale or conveyance of the record legal title to the Lot or Living Unit to which it is appurtenant.

- (ii) Class B Villas Members shall consist of Declarant and its successors and assigns and shall be entitled to three (3) votes for each Lot owned in the Villas. The Class B Villas membership shall cease and be converted to Class A Villas membership on the happening of any of the following events, whichever occurs earlier ("Villas Turnover Date"):
  - (a) three (3) months after Declarant has sold ninety percent (90%) of the Lots in the Villas to Villas Owners who are not a successor Developer; or
  - (b) when Declarant, in its sole and absolute discretion, so determines.

Once the Villas Turnover Date has occurred, Declarant shall record or cause to be recorded an instrument in the public records of the County, which expresses that the Class B Villas membership has ceased and been converted to Class A Villas membership.

Notwithstanding the foregoing and anything to the contrary contained herein, Declarant shall be entitled to elect all of the members of the Villas Board of Directors until three (3) months after ninety percent (90%) of the Lots in the Villas have been conveyed to Villas Owners other than a successor Developer. Upon the occurrence of the date set forth in the immediately preceding sentence, Villas Members other than Declarant shall be entitled to elect at least a majority of the members of the Villas Board of Directors; however, Developer shall have the right (but not the obligation) to appoint at least one (1) member of the Villas Board of Directors (so long as Developer holds for sale in the ordinary course of business at least five percent (5%) of the Lots in the Villas).

All of Declarant's other rights and privileges as Declarant, as set forth in the Villas Covenants, shall continue as long as Declarant holds any

property within the Villas for sale in the ordinary course of business. If Declarant conveys undeveloped property within the Villas to a successor Developer, Declarant may assign its Declarant membership and some or all of its voting rights and privileges to the successor Developer.

- (B) Villas Association Rights. So long as there is a Declarant Villas Member, any and all rights of Villas Members, and any and all restrictions, limitations, conditions and rules and regulations that a Villas Member shall be subject to, shall not be amended without the prior written consent of Declarant, which consent shall be in Declarant's sole and absolute discretion.
- (C) Separation of Villas Ownership. The ownership of a Villas Lot and the ownership of the Living Unit constructed thereon, may not be separated or separately conveyed, nor may any person who does not own record legal title to at least one (1) Lot, Living Unit, Tract or Parcel in the Villas hold membership in the Villas Association.

- 11.7 Voting Groups. In order to provide for relatively equal representation on the Board of Directors which may have potentially dissimilar interests from the remainder of the Community, and to avoid a situation in which the Villas are excluded from representation on the Board of Directors, Declarant may establish Voting Groups for the election of members of the Board of Directors. Voting Groups may be established by Declarant in its sole and absolute discretion at least ninety (90) days before the Turnover Date, and shall be evidenced by the recording of a Supplemental Declaration in the Public Records of the County establishing the Voting Groups. Voting Groups will generally be composed of one or more areas of similar housing types, but the designation of such groups is in the discretion of Declarant.

Each Voting Group shall be entitled to elect the number of members of the Board of Directors specified in the Supplemental Declaration. This Section 11.7 may not be amended without the prior written consent of Declarant until the Turnover Date.

11.8 Villas Assessments.

- (A) Creation of Lien. Each Villas Owner, by acceptance of a deed to a Lot or Living Unit, covenants and agrees to pay:

- (i) Annual Assessments and Special Assessments to the Association.
- (ii) Annual Villas Assessments to the Villas Association.
- (iii) Special Villas Assessments to the Villas Association.
- (iv) Service Assessments and other fees or charges (including fines) imposed against one (1) or more Lots, Living Units, Tracts or Parcels, as provided for in the Governing Documents.
- (v) System Assessments to MX.
- (vi) Except as otherwise provided in Section 14.2 below as to certain Institutional Mortgagees, and except as provided in Section 11.8(B) below, as to Declarant and Developer, no Villas Owner may avoid or escape liability for the Villas Assessments or charges provided for herein by non-use or abandonment of his Lot, Living Unit, Tract or Parcel.
- (vii) Villas Assessments shall be fixed, levied, established and collected as provided herein, and in the Villas Covenants.
- (viii) The Villas Owner of each Lot or Living Unit regardless of how title was acquired, is liable for all Villas Assessments coming due while he is the Villas Owner. Multiple Villas Owners are jointly and severally liable. Except as provided in Section 14.2 below, whenever title to a Lot or Living Unit is transferred for any reason, the new Villas Owner is jointly and severally liable with the previous Villas Owner for all Villas Assessments unpaid at the time of the transfer, regardless of when incurred, without prejudice to any right the new Villas Owner may have to recover from the previous Villas Owner any amounts paid by the new Villas Owner.
- (ix) No land shall be subject to Assessment by the Villas Association if it is owned by or dedicated to the County, or other governmental agency, and used for a public purpose. Only Lots and Living Units in the Villas shall be subject to the Villas Assessment.

(B) Declarant's Assessments. The Villas Assessment and lien provisions of this Section 11.8 shall not apply to any Lot, Living Unit, Tract or Parcel owned by Declarant or by any Developer succeeding to all or a portion of Declarant's rights herein, whether by assignment, in reorganization, or by other arrangement. Should Declarant's lender, its successors or assigns, acquire title to any Lot, Living Unit, Tract or Parcel owned by Declarant, as a result of a foreclosure or deed in lieu of foreclosure, the Villas Assessment and lien provisions of this Section 11.8 shall not apply. The obligation and covenant of a Villas Owner to pay Villas Assessments as provided in this Section 11.8 shall, however, apply to a Living Unit or Lot owned by Declarant or a Developer upon the occurrence of any one of the following events:

- (i) Conveyance of the Lot or Living Unit to a Villas Owner other than a Developer; or
- (ii) Construction of a Living Unit has been completed, a certificate of occupancy or the equivalent approval by an appropriate local governmental agency has been issued, and the Villas Owner has closed on the purchase of the Living Unit; or
- (iii) Declarant executes and records a written instrument subjecting a Lot, Living Unit, Tract or Parcel to the Villas Assessment and lien provisions of this Section 11.8.

Notwithstanding anything to the contrary contained herein, until the Villas Turnover Date, Declarant covenants to subsidize the general operating expenses of the Villas Association, by contributing the difference, if any, between net operating expenses and all income of the Villas Association including but not limited to Villas Assessment income from Villas Members other than Declarant, interest income and income from ancillary operations. Declarant, however, shall not be obligated to contribute to or pay for funding any reserves for capital expenditures or deferred maintenance, capital improvement fund or special Assessment. Declarant's rights and obligations hereunder may be assigned to a Developer. During the period of Declarant control, in return for subsidizing the general operating expenses of the Villas Association, any net operating profit made by the Villas Association will revert back to Declarant to offset existing and future capital improvements, operating expenses, support costs and start-up costs. Net operating profit

shall mean the amount by which income from all sources of the Villas Association exceeds operating costs and expenses, but excluding depreciation expense and amortization expense.

(C) Purposes of Villas Assessments:

- (i) To promote the recreation, health, safety, and welfare of the Villas Owners and residents of the Villas;
- (ii) For the improvement, maintenance, protection, security and operation of the Villas Association and the Villas Association equipment and facilities; and to establish and maintain adequate repair and replacement reserves, to the extent necessary and as may be required by applicable law;
- (iii) For the maintenance of Lots and Living Units as provided in the Villas Covenants, including without limitation, lawn irrigation, lawn maintenance contractors, roof contractors and exterior painting contractors contracted by Declarant or the Villas Association as controlled by Declarant (so long as Declarant holds any property in the Villas for sale in the ordinary course of business) and subsequently the Villas Association;
- (iv) Where deemed desirable by Declarant (so long as Declarant holds any property in the Villas for sale in the ordinary course of business) and subsequent thereto, the Villas Board of Directors, to provide services of general benefit to the Villas Owners and residents either on a Villas-wide basis or otherwise, including without limitation, cable television, gas, refuse services, transportation, security or other services;
- (v) To pay the operating expenses of the Villas Association; and
- (vi) For such other purposes and uses as are authorized by the Villas Covenants, as amended from time to time.

(D) Imposition of Annual Villas Assessments. Upon the closing of the initial sale of each Lot or Living Unit in the Villas to a purchaser other than Declarant or a Developer, and on the first day of each fiscal year thereafter,

an annual Villas Assessment shall be assessed against each Lot or Living Unit in the Villas. The annual Villas Assessment for the year in which the initial sale occurred shall be prorated to the actual date of closing.

- (E) Amount of Villas Assessments. The annual Villas Assessments levied by the Villas Board of Directors shall be assessed equally against all Lots and Living Units in the Villas. The amount of the annual Villas Assessment based on the annual budget shall be the same for each Lot or Living Unit in the Villas subject to Villas Assessment except that until the Villas Turnover Date Developer shall not be required to pay any Villas Assessment so long as Developer pays any shortfall in the Villas Association operating expenses in accordance with Section 11.8(B). At the time of recording this Declaration the amount of the initial Assessment per Villas Lot has not been determined. Declarant shall have the right (but not the obligation) to amend this Declaration to provide for the amount of the initial Assessment per Villas Lot.
- (F) Special Villas Assessments. Any special Villas Assessments levied by the Villas Association's Board of Directors shall be assessed equally against all Lots and Living Units in the Villas, unless the special Villas Assessment or portion thereof is intended specifically for the direct benefit of one or more classes of Villas Members, in which case it shall be assessed against only the classes of Villas Members directly benefitted. Under no circumstances shall Declarant or any Developer have any obligation to pay special Villas Assessments.
- (G) Charges. Any charge by the Villas Association authorized by law or by the Villas Covenants to be imposed on less than all of the Lots or Living Units in the Villas shall not be deemed a Villas Assessment. Payment may be enforced as provided in Section 11.8(H) and 11.8(I) below.
- (H) Lien. The Villas Association has a lien on each Lot and Living Unit in the Villas for any unpaid past due Villas Assessments and charges, together with interest, late payment penalties and reasonable attorneys' fees and costs incurred by the Villas Association in enforcing this lien. The lien relates back to the date of recording this Declaration in the public records of the County; and is perfected by recording a Claim of Lien in the public records of the County, which Claim of Lien shall state the legal description of the property encumbered thereby, the name of the record owner, the amounts

then due and the dates when due. The Claim of Lien must be signed and acknowledged by an officer or agent of the Villas Association, and if it pertains to any unpaid past due System Assessments by an officer or agent of MX. The lien shall continue in effect until all sums secured by said lien have been fully paid, and the lien satisfied or discharged. The Claim of Lien shall secure all unpaid Villas Assessments (or System Assessments in the case of MX) and charges, interest, costs and attorneys' fees which are due and which may accrue or come due after the recording of the Claim of Lien and up to the issuance of a clerk's deed. Upon full payment, the person making payment is entitled to a satisfaction of the lien. MX has a lien on each Lot and Living Unit in the Villas for any unpaid past due System Assessments, together with interest, late payment penalties and reasonable attorneys' fees and costs incurred by MX in enforcing the lien.

- (I) Foreclosure of Lien. MX's or the Villas Association's lien, as applicable, may be foreclosed by the procedures and in the manner provided by Florida law, as it may be amended from time to time. The Villas Association or MX may also bring an action at law against any Villas Owner liable for unpaid charges or Villas Assessments or System Assessments (in the case of MX). If final judgment is obtained, it shall include interest on the Villas Assessment as above provided and reasonable attorneys' fees to be fixed by the Court, together with the costs of the action, and the prevailing party shall be entitled to recover reasonable attorneys' fees in connection with any appeal of such action.
- (J) Subordination of Lien to Mortgages. The lien of the Villas Assessments provided for herein shall be subordinate to the lien of any first mortgage on a Lot. Sale or transfer of any Lot shall not affect the Villas Assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the Villas Assessment lien by such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Villas Assessments thereafter becoming due or from the lien thereof.
- (K) Ownership. Villas Assessments and charges collected by or on behalf of the Villas Association become Villas Association property; no Villas Owner has the right to claim, assign or transfer any interest therein except as an appurtenance to his Lot or Living Unit. No Villas Owner has the right to withdraw or receive distribution of his share of the common surplus (including reserves), except as otherwise provided by law.

- 11.9 **Lawns, Landscaping, Irrigation Systems.** Except for designated Conservation Areas, buffer zones, open space or similar areas located within the Villas, all areas not covered by Structures, walkways or paved parking facilities shall be maintained by the Villas Association as lawn or landscaped areas to the pavement edge of any abutting streets and the waterline of any abutting lakes, canals or water management areas. The Villas Association, through its duly authorized agents and employees, shall have an easement over, through and across all Villas Lots, and the right to enter upon all Villas Lots at reasonable hours to perform the maintenance as contemplated in this Section 11.9, and such entry onto the Villas Lots is hereby expressly permitted and authorized and shall not constitute a trespass. Such maintenance by the Villas Association shall include, but shall not be limited to, cutting, edging and fertilizing the lawn and maintaining the trees and hedges. The Villas Association shall also weed the plant beds on each Villas Lot, provided that the Villas Owner of such Lot has not modified the plant beds from the original plant beds installed by Developer. In the event a Villas Owner modifies the plant beds as initially installed by Developer, then such Villas Owner shall be solely responsible for maintenance of such plant beds. Stone, gravel or paving may not be used as a substitute for grass in a lawn. Certain areas in the Villas as determined by the Developer or the PD shall remain in a natural or unimproved state. All lawns and landscaping shall be completed at the time of completion of the particular Living Unit in the Villas, as evidenced by the issuance of a Certificate of Occupancy by the appropriate governmental agency, and shall thereafter be kept in good condition by the Villas Association. Lawns must be regularly cut and mulched areas regularly re-mulched. The irrigation lines within the Villas shall be the responsibility of the Villas Association to the extent the irrigation lines are not dedicated to any governmental body or entity by Developer, unless an amendment to this Declaration is recorded for one or more Living Units in the Villas making the maintenance of such irrigation lines and related components in the Villas the maintenance obligation of each Villas Owner. The components of the irrigation system on each Lot, located within the Villas, including but not limited to the tap into the main line, timers, switching devices and heads shall be the responsibility of the Villas Association. Developer, until Developer owns no Lots in the Villas, and the Villas Association thereafter, shall have the right, at its sole and absolute discretion to adopt a schedule of irrigation times and duration of irrigation, subject to the direction of SWFWMD. EACH VILLAS OWNER ACKNOWLEDGES THAT SOME LIVING UNITS IN THE VILLAS MAY NOT HAVE FRONT YARDS, AND OTHER LIVING UNITS IN THE VILLAS MAY HAVE FRONT YARDS THAT ARE LARGER OR SMALLER THAN THE FRONT YARDS OF OTHER LIVING UNITS IN THE

VILLAS. NOTWITHSTANDING THE FOREGOING, ALL LAWN MAINTENANCE EXPENSES SHALL BE DEEMED PART OF THE OPERATING COSTS OF THE VILLAS ASSOCIATION, AND EACH VILLAS OWNER SHALL PAY AN EQUAL SHARE OF SUCH COSTS.

- 11.10 **Painting.** The Villas Association shall be responsible for painting the exterior of all Living Units in the Villas in order to maximize the useful life of each Living Unit in the Villas and in order to maintain the aesthetics of the Villas. The Villas Association shall have the right to enter into contracts for such exterior painting. No Villas Owner shall have any right whatsoever to paint the exterior of any Living Unit in the Villas.
- 11.11 **Roofs.** The Villas Association shall be responsible for maintaining, repairing and replacing the roofs of all Living Units in the Villas in order to maximize the useful life of each roof and in order to maintain the aesthetics of the Villas. The Villas Association shall have the right to enter into contracts for such roof maintenance, repair and replacement. No Villas Owner shall have any right whatsoever to maintain, repair or replace any portion of any roof of any Living Unit in the Villas.
- 11.12 **Street Lighting.** The Villas Association shall at all times maintain, repair and replace any street lighting located within the Villas, including but not limited to, street lighting which lies within one or more Lots.
- 11.13 **Villas Easements.** Certain Lots within the Villas, including without limitation, Villas Lots 28 and 32, and certain Tract(s) within the Community or Villas, shall be subject to easements for roof overhang, sidewalk and pedestrian access for the benefit of Villas Lots 25, 29 and 33, as applicable and as may be depicted and/or referenced on a plat of the Community including the Villas. Declarant shall have the right (but not the obligation) to amend this Section 11.13 to the extent it so desires, including without limitation, regarding the Villas Lots subject to such easements.
- 11.14 **Perimeter Walls and Common Area Walls.** The Villas Association shall be responsible for maintaining any perimeter and Common Area walls of the Villas even if such walls lie within one or more Lots.
- 11.15 **Party Walls.**
  - (A) **General Rules of Law to Apply.** Each double (or shared) partition wall built as a part of the original construction of a townhouse, which shall serve and

separate any two (2) or more adjoining Living Units in the Villas shall constitute a party wall and, to the extent not inconsistent with the provisions of this Section 11.15, the general rules of Florida law regarding party walls and liability for property damage thereto due to negligence or willful acts or omissions shall apply.

- (B) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Villas Owners who make use of the wall in equal proportions.
- (C) Damage and Destruction. If a party wall is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired from the proceeds thereof, any Villas Owner who has use of the party wall may restore it, and if the other Villas Owner or Villas Owners thereafter make use of the party wall, they shall contribute to the cost of restoration thereof in equal proportions, without prejudice to the right of any such Villas Owner or Villas Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.
- (D) Weatherproofing. Notwithstanding any other provision of this Section 11.15, to the extent that such damage is not covered and paid by insurance as provided for herein, a Villas Owner who by his negligent or willful act causes any party wall to be exposed to the elements shall bear the entire cost of furnishing the necessary protection against the elements.
- (E) Right to Contribution Runs With Land. The right of any Villas Owner to contribution from any other Villas Owner under this Section 11.15 shall be appurtenant to the land and shall pass to such Villas Owner's successor-in-title.
- (F) Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Section 11.15, each party shall appoint one (1) arbitrator. Should any party refuse to appoint an arbitrator within ten (10) days after written request therefor by the Villas Board of Directors, the Villas Association shall appoint an arbitrator for the refusing party. The arbitrators thus appointed shall appoint one (1) additional arbitrator and the decision by a majority of all appointed arbitrators shall be binding upon the parties and

shall be a condition precedent to any right of legal action that any party may have against the other.

- 11.16 **Subdivision and Regulation of Land.** No Lot or Living Unit in the Villas may be divided or subdivided without the express written consent of Declarant. No Villas Owner, the Association or the Villas Association shall initiate, undertake or attempt to inaugurate or implement any variation from, modification to, or amendment of the PD or any other governmental plans, land development regulations, development orders or development permits applicable to the Villas, or to any Lot, Tract or Parcel in the Villas, without the prior written approval of Declarant, which approval may be denied at the sole and absolute discretion of Declarant. Nothing herein is intended to prohibit judicial partition of a Lot or Living Unit in the Villas owned by two (2) or more persons.

## **12. INSURANCE; RECONSTRUCTION AFTER CASUALTY.**

- 12.1 **Duty to Insure and to Reconstruct or Clean Up.** Each Owner shall at all times maintain adequate property insurance on the Living Units and all other insurable improvements in amounts equal to the replacement cost thereof. For Living Units in the Villas, each Villas Owner shall at all times maintain adequate property insurance on both the interior (including party walls) and exterior of their Living Unit in the Villas (except in the event that the exterior of the Living Units in the Villas are insured by the Villas Association). The Villas Association shall have the right (but not the obligation) to procure insurance on and for the exterior of the Living Units in the Villas, and in the event the Villas Association does so, the cost and expense for such insurance shall be part of the Villas Assessments to be paid by the Villas Owners. If any Living Unit or other improvements located on any Lot, Tract or Parcel is destroyed or damaged as a result of fire, windstorm, flood, tornado, hurricane or other casualty, the Owner shall:

- (A) Cause repair or replacement to be commenced within six (6) months after the date such damage or destruction occurred, and complete the repair or replacement within six (6) months thereafter. All such repairs or replacements must be approved in writing by the ARC or the Villas ARC, as applicable. Unless changes are approved by the ARC or the Villas ARC, the Owner must restore the damaged property to substantially the same configuration as existed before the casualty, and to be structurally and architecturally compatible with any adjoining improvements which share a party wall; or

(B) Promptly cause all debris, damaged improvements and their unsightly materials to be removed from the site.

- 12.2 **Failure to Comply.** If any Owner fails to comply with Section 12.1 above within the time periods provided, the Association and the Villas Association, as applicable, shall be deemed to have been granted the right by the Owner as his attorney-in-fact, to either commence and complete the repairs sufficient to substantially restore the improvements to their original conditions, according to the plans and specifications of the original improvements; or to remove the damaged improvements completely. If the Association or the Villas Association exercises the rights afforded to it by this Section, the Owner shall be deemed to have assigned to the Association or the Villas Association any right he or it may have to insurance proceeds that may be available because of the damage or destruction. The Association and the Villas Association, as applicable, shall have the right to recover from the Owner any costs not paid by insurance, and shall have a lien on the Lot or Living Unit to secure payment.
- 12.3 **Flood Insurance.** The Association may, in the discretion of the Board of Directors, maintain flood insurance to cover buildings and any other property, if it owns any, in designated hazard areas, if any, up to the full insurable value or maximum coverage available.
- 12.4 **Property Insurance.** The Association shall maintain replacement cost property insurance coverage on all structures, improvements, and fixtures which are part of the Common Areas owned by the Association.
- 12.5 **Liability Insurance.** The Association shall maintain adequate public liability insurance coverage for all Common Areas owned by the Association.
- 12.6 **Bonding.** The Association shall maintain adequate fidelity bond coverage for all individuals having control of or access to Association funds, as it may deem appropriate and to the extent required under Florida law. The Villas Association shall maintain adequate fidelity bond coverage for all individuals having control of or access to Villas Association funds, as it may deem appropriate and to the extent required under Florida law.
- 12.7 **Association's and Villas Association's Right of Entry.** For the purpose of performing the duties authorized by this Section 12, the Association and the Villas Association, through its duly authorized agents and employees, as applicable, shall

have the right to enter upon any Living Unit or Lot at reasonable hours and perform such duties.

**13. RIGHTS OF DECLARANT AND DEVELOPERS.** In addition to those provided elsewhere in the Governing Documents and the Villas Covenants, Declarant and each Developer shall have the following rights and privileges:

13.1 **Sales Activity.** While one or more Lots or Living Units are for sale in the ordinary course of business, Declarant and each Developer shall have the right to use those Lots or Living Units and the Common Areas (including, but not limited to, all recreational facilities) to establish, modify, maintain and utilize, as it and they deem appropriate, model Living Units, sales offices or other offices for use in selling or providing warranty services to any part of the Community including temporary trailers or other structures used for sales, marketing or construction purposes. No Owner (including any Owner that may be a realtor) or the Villas Association may interfere with, or do anything detrimental to, Declarant's sales efforts. Without limiting the generality of the foregoing, Declarant and its designees may show model Living Units and the Common Areas to prospective purchasers or tenants, advertise, erect signs, conduct promotional activities and special events and take all other action helpful for sales, Leases and promotion of the Community.

13.2 **Assignment of Rights to Successor Developer.** Except as otherwise specifically provided herein, Declarant reserves the right and the power to delegate or assign, either exclusively or non-exclusively, partially or completely, to any person or entity, any or all of its development rights, powers, duties and privileges created in or provided for by this Declaration. Such assignment shall not in any way lessen Declarant's rights with respect to property not subject to such assignment.

13.3 **Security Non-Liability of Declarant, Association and Villas Association.**

**ALL PERSONS USING OR OCCUPYING ANY PORTION OF THE COMMUNITY ARE RESPONSIBLE FOR THEIR OWN SECURITY AND THE SECURITY OF THEIR OWN PROPERTY.**

**NEITHER THE ASSOCIATION, THE VILLAS ASSOCIATION, DECLARANT, OR DEVELOPER ARE INSURERS OR GUARANTORS OF SECURITY FOR PERSONS OR PROPERTY WITHIN THE COMMUNITY.**

**NEITHER THE ASSOCIATION, THE VILLAS ASSOCIATION, DECLARANT, OR DEVELOPER SHALL BE LIABLE IN ANY WAY ON ACCOUNT OF LOSS, DAMAGE OR INJURY RESULTING FROM ANY CRIMINAL ACTIVITY OCCURRING IN THE COMMUNITY. DECLARANT AND DEVELOPER MAKE NO REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE PROTECTION SYSTEM AND/OR BURGLAR ALARM SYSTEMS, OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE COMMUNITY.**

**13.4 Miscellaneous.**

- (A) Declarant shall have the right and the power to regulate and control the external design and appearance of all Common Areas in such a manner as to:
  - (1) Promote a quality environment which will preserve the value of the Lots and Living Units; and
  - (2) Foster the attractiveness and functional utility of the Community as a place to live and play, including a harmonious relationship among structure, vegetation and topography.
- (B) Any use of Common Areas, other than the uses intended pursuant to this Declaration shall be subject to the prior written approval of Declarant so long as it owns any land in the Community which it holds for the purpose of development.
- (C) Declarant in its sole discretion has the right to replat unsold portions of the Lands, including without limitation, Tracts reserved for future development on any plat of the Community, without the joinder or consent of any Owner.
- (D) Developer has the right to receive a refund of any and all deposits or other payments made to utility companies or governmental authorities which are refunded in the course of development, even if such refunds occur after the sale of the last Lot or Living Unit in the Community to an Owner other than a Developer.

- 13.5 **Additions or Withdrawals of Property.** Declarant has the sole, exclusive and absolute right and the power, but neither the duty nor the obligation, to record instruments bringing additional lands within the Community or the Villas even if not presently anticipated and subjecting those lands to the protective covenants, conditions, restrictions or provisions provided for in this Declaration. Declarant also reserves the right in its sole and absolute discretion to withdraw property from submission to this Declaration, except that Declarant shall not be permitted to withdraw any property after it has been conveyed to an Owner other than Declarant, without the joinder of the Owner. Declarant further reserves the right in its sole and absolute discretion to withdraw property from the Villas as submitted to this Declaration, except that Declarant shall not be permitted to withdraw any such property from the Villas after it has been conveyed to a Villas Owner other than Declarant, without the joinder of the applicable Villas Owner.
- 13.6 **Management Contract.** Declarant shall have the right and the power to enter into professional management contracts on behalf of the Association and the Villas Association before the Turnover Date.
- 13.7 **Appointment of Board of Directors and Villas Board of Directors.** As is set forth herein, Declarant shall be entitled to elect all of the members of the Board of Directors until three (3) months after ninety percent (90%) of the Lots in the Community have been conveyed to Owners other than a successor Developer. Upon the occurrence of the date set forth in the immediately preceding sentence, Members other than Declarant shall be entitled to elect at least a majority of the members of the Board of Directors; however Developer shall have the right to appoint at least one (1) member of the Board of Directors (so long as Developer holds for sale in the ordinary course of business at least five percent (5%) of the Lots in the Community). In addition, Declarant shall be entitled to elect all of the members of the Villas Board of Directors until three (3) months after ninety percent (90%) of the Lots in the Villas have been conveyed to Villas Owners other than a successor Developer. Upon the occurrence of the date set forth in the immediately preceding sentence, Villas Members other than Declarant shall be entitled to elect at least a majority of the members of the Villas Board of Directors; however Developer shall have the right to appoint at least one (1) member of the Villas Board of Directors (so long as Developer holds for sale in the ordinary course of business at least five percent (5%) of the Lots in the Villas).
- 13.8 **Declarant's Inaction.** Neither the execution and recordation of this Declaration, nor the creation of any association or other entity, nor the recordation of any other

instrument subjecting any land in the Community to protective covenants, conditions or restrictions or other provisions, shall obligate or require:

- (A) Declarant to grant any right, power, duty or privilege of any nature or kind to the Association, the Villas Association or to any other entity; or
- (B) Declarant, the Association, the Villas Association or any other entity, to perform any act permitted by this Declaration or by any other recorded instrument, or to enforce any covenant, condition, restriction or other provision hereof or thereof, or to do anything which it does not, in its sole and absolute discretion, elect to do.

- 13.9 **Rules and Procedures for Entry.** Developer in its sole and absolute discretion, may for so long as it owns Lots in the Community limit or refuse entry to salesmen, vendors, or realtors not approved by Developer. To the extent necessary or desirable, Developer may set entry rules and procedures for entrance into the Community in its sole and absolute discretion, including without limitation, limiting or refusing entry to the parties and individuals referenced in the immediately preceding sentence.

#### **14. RIGHTS OF MORTGAGEES.**

- 14.1 **Notice of Casualty or Condemnation.** In the event of condemnation, eminent domain proceedings, or very substantial damage to, or destruction of any significant portion of the Common Areas, the record holder of any first mortgage on the Common Areas who has requested such notice in writing, shall be entitled to written notice.
- 14.2 **Mortgage Foreclosure.** Except as otherwise provided by Florida law as amended from time to time, if an Institutional Mortgagee acquires title to a Lot, Living Unit, Tract or Parcel as a result of foreclosure of the mortgage, or as the result of a deed given in lieu of foreclosure, such Institutional Mortgagee shall not be liable for the Assessments, Villas Assessments or System Assessment or charges attributable to the Lot, Living Unit, Tract or Parcel, or chargeable to the former Owner, which came due prior to the Institutional Mortgagee's acquisition of title. Any unpaid Assessments or Villas Assessments or charges for which such acquirer is exempt from liability becomes an expense collectible from all Owners, pro rata, including such acquirer and his successors and assigns. No Owner or acquirer of title to a Lot, Living Unit, Tract or Parcel by foreclosure (or by a deed in lieu of foreclosure) may, during the period of his, her or its ownership, be excused from the payment of any Assessments or Villas Assessments or charges coming due during the period of such ownership.

- 14.3 **Rights to Inspect Documents and Books.** The Association and the Villas Association shall make available to Institutional Mortgagees requesting same the current Governing Documents, Villas Covenants, and financial statements of the Association and the Villas Association. "Available" shall mean ready for inspection, upon written request, during normal business hours, or under other reasonable circumstances. Photocopies shall be at the expense of the Institutional Mortgagee requesting same.
- 14.4 **Financial Statement.** Any Institutional Mortgagee is entitled, upon written request, to a copy of the financial statements of the Association and the Villas Association, if applicable, for the immediately preceding fiscal year.
- 14.5 **Lender's Notices.** Upon written request to the Association or the Villas Association, any Institutional Mortgagee shall be entitled to timely written notice of:
- (A) Any delinquency of more than sixty (60) days in the payment of Assessments, Villas Assessments or charges owed by the Owner of any Lot, Living Unit, Tract or Parcel on which it holds a mortgage.
  - (B) A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association or the Villas Association. An increase in coverage, or a change of insurer does not require notice under this paragraph.
  - (C) Any proposed action that requires the consent of a specified percentage of mortgage holders.

**15. DURATION OF COVENANTS; AMENDMENT.**

- 15.1 **Duration of Covenants.** The covenants, conditions, easements and restrictions in this Declaration shall run with and bind the Lands, and shall inure to the benefit of and be enforceable by MX, the Association, the Villas Association, Declarant and any Owner, their respective legal representatives, heirs, successors and assigns, for an initial period to expire on the ninety-ninth (99<sup>th</sup>) anniversary of the date of recording this Declaration in the public records of the County. Upon the expiration of said initial period, this Declaration shall be automatically renewed and extended for an unlimited number of successive ten (10) year periods, unless and until terminated as provided below.

15.2 **Termination.**

- (A) As to the Association. This Declaration may be terminated at any time after the initial period if not less than eighty percent (80%) of the Voting Interests of all classes of Members vote in favor of terminating this Declaration. Written notice of any meeting at which a proposal to terminate this Declaration is to be considered, setting forth the fact that such proposal will be considered, shall be given at least forty-five (45) days in advance of said meeting. If the Members vote to terminate this Declaration, the President and Secretary of the Association shall execute a certificate which shall set forth the resolution of termination so adopted, the date of the meeting of the Association at which the resolution was adopted, the date that notice of the meeting was given, the total number of votes cast in favor of the resolution, and the total number of votes cast against the resolution. The certificate shall be recorded in the public records of the County, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration. The termination shall be effective on the date the certificate is recorded in the public records of the County. Notwithstanding anything to the contrary contained herein, this Declaration cannot be terminated without the consent of MX and the Villas Association, which may be withheld in either MX's or the Villas Association's sole and absolute discretion.
- (B) As to the Villas Association. This Declaration may be terminated as it pertains only to the Villas Lands and the Villas Association at any time after the initial period if not less than eighty percent (80%) of the Villas Voting Interests of all classes of the Villas Members vote in favor of terminating this Declaration as it pertains only to the Villas Lands and the Villas Association. Written notice of any meeting at which a proposal to terminate this Declaration as it pertains only to the Villas Lands and the Villas Association is to be considered, setting forth the fact that such proposal will be considered, shall be given at least forty-five (45) days in advance of said meeting. If the Villas Members vote to terminate this Declaration as it pertains only to the Villas Lands and the Villas Association, the President and Secretary of the Villas Association shall execute a certificate which shall set forth the resolution of termination so adopted, the date of the meeting of the Villas Association at which the resolution was adopted, the date that notice of the meeting was given, the total number of votes cast in favor of the resolution, and the total number of votes cast against the resolution. The certificate shall

be recorded in the public records of the County, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration as it pertains only to the Villas Lands and the Villas Association. The termination shall be effective on the date the certificate is recorded in the public records of the County.

- 15.3 **Amendments.** Subject to the provisions hereof, this Declaration may be amended at any time. Except as otherwise specifically provided, amendments to this Declaration may be proposed by the Board of Directors or by written petition of at least one-fourth (1/4) of the Voting Interests.
- 15.4 **Procedure.** Upon any amendment or amendments to this Declaration being proposed as provided above, the proposed amendment or amendments shall be submitted to a vote of the Members not later than the next annual meeting for which proper notice can be given.
- 15.5 **Vote Required.** Except as otherwise provided by law, or by specific provision of this Declaration, a proposed amendment to this Declaration shall be adopted if it is approved at an annual or special meeting called for that purpose by at least two-thirds (2/3) of the Voting Interests of each class of Members present and voting, provided that notice of the text of each proposed amendment was sent to the Members with notice of the meeting.
- 15.6 **Certificate; Recording.** A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to this Declaration, which certificate shall be executed by the President, Vice President and/or Secretary of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the public records of the County. The certificate must set forth the location in the public records of the County where this Declaration was originally recorded.
- 15.7 **Provision.** Regardless of any other provision in this Declaration, no amendment of the Governing Documents by any person, and no termination or amendment of this Declaration can be effective to change the Association's responsibilities for the Surface Water Management System Facilities and the Conservation Areas, unless the amendment has been consented to in writing by the Association. Any amendments to this Declaration affecting the Surface Water Management System Facilities or the operation and maintenance of the Surface Water Management System Facilities shall have the prior written approval of SWFWMD.

- 15.8 **Exceptions.** Whether in this Declaration the consent, approval or affirmative vote of two-thirds (2/3) or more of the Voting Interests of the Members is required to authorize or take a particular action, the language requiring the particular number of consents, approvals, or votes may not be amended except by the same vote required to authorize or take the action. This provision does not apply to amendments by Declarant or Developer.
- 15.9 **Amendment of Provision Relating to Developer.** As long as Developer holds any Lot or Living Unit for sale in the ordinary course of business, no amendments shall have the effect of changing any provision relating specifically to Declarant or Developer without their prior written consent, which consent shall be in their sole and absolute discretion.
- 15.10 **Amendment by Declarant.** Notwithstanding the foregoing and anything to the contrary contained herein, and in addition to any other right of amendment or modification provided for in this Declaration, Declarant may, in its sole and absolute discretion, by an instrument filed of record in the County, unilaterally modify, enlarge, amend, waive or add to the covenants, conditions, restrictions and other provisions of this Declaration, and any recorded exhibit hereto. Declarant shall not be bound by the amendment requirements set forth in this Declaration, including without limitation, the procedural, required vote and recording of certificate requirements set forth above. The right set forth in this Section 15.10 shall expire at such time as no Developer holds any property for sale in the ordinary course of business within the Community.
- 15.11 **Limitations.** No amendment to any of the Governing Documents shall be effective to change any Member's voting rights as set forth in the Governing Documents unless all Members affected first consent in writing to said amendment. No amendment to any of the Villas Covenants shall be effective to change any Villas Member's voting rights as set forth in the Villas Covenants, unless all Villas Members affected first consent in writing to said amendment.
- 15.12 **MX.** No amendment to this Declaration may be made that affects any of MX's rights hereunder without MX's consent, which may be withheld in MX's sole and absolute discretion.
- 15.13 **Villas Association.** After such time as Developer owns no Lots in the Community, no amendment to this Declaration may be made that affects any of the Villas

Association's rights hereunder without the Villas Association's consent, which may be withheld in the Villas Association's sole and absolute discretion.

15.14 **Amendment to the Declaration by the Villas Association.** Subject to the provisions hereof, this Declaration may be amended at any time by the Villas Association to the extent the proposed amendment affects only the interests of the Villas Association or the Villas Lands. Amendments to this Declaration by the Villas Association may be proposed by the Villas Board of Directors or by written petition of at least one-fourth (1/4) of the Villas Voting Interests.

- (A) **Procedure.** Upon any amendment or amendments to this Declaration being proposed as provided in this Section 15.14, the proposed amendment or amendments shall be submitted to a vote of the Villas Members not later than the next annual meeting for which proper notice can be given.
- (B) **Vote Required.** Except as otherwise provided by law, or by specific provision of this Declaration, a proposed amendment to this Declaration by the Villas Association proposed as provided in this Section 15.14 shall be adopted if it is approved at an annual or special meeting called for that purpose by at least two-thirds (2/3) of the Villas Voting Interests of each class of Villas Members present and voting, provided that notice of the text of each proposed amendment was sent to the Villas Members with notice of the meeting.
- (C) **Certificate; Recording.** A copy of each adopted amendment proposed as provided in this Section 15.14 shall be attached to a certificate that the amendment was duly adopted as an amendment to this Declaration, which certificate shall be executed by the President, Vice President and/or Secretary of the Villas Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the public records of the County. The certificate must set forth the location in the public records of the County where this Declaration was originally recorded.
- (D) **Provision.** Regardless of any other provision in this Declaration, no amendment of the Villas Covenants by any person, and no termination or amendment of this Declaration, can be effective to change the Villas Association's responsibilities for the Surface Water Management System Facilities, as those responsibilities are specifically outlined in this Declaration

and the Villas Articles of Incorporation unless the amendment has been consented to in writing by the Villas Association. Any amendments to this Declaration affecting the Surface Water Management System Facilities or the operation and maintenance of the Surface Water Management System Facilities shall have the prior written approval of SWFWMD.

- (E) **Exceptions.** Whether in this Declaration the consent, approval or affirmative vote of two-thirds (2/3) or more of the Villas Voting Interests of the Villas Members is required to authorize or take a particular action, the language requiring the particular number of consents, approvals, or votes may not be amended except by the same vote required to authorize or take the action. This provision does not apply to amendments by Declarant or a Developer.

## **16. GENERAL AND PROCEDURAL PROVISIONS.**

- 16.1 **Other Documents.** Declarant, the Association, MX, and the Villas Association shall have such rights, powers, duties and privileges as are set forth in the Governing Documents and the Villas Covenants; however, this Declaration and its provisions shall prevail in all events of conflict.
- 16.2 **Severability.** If any covenant, condition, restriction or other provision of this Declaration is held to be invalid in whole or in part by any court of competent jurisdiction, the holding shall in no way affect the validity of the remaining provisions of this Declaration, all of which shall remain in full force and effect.
- 16.3 **Merger or Consolidation of Associations.** Upon a merger or consolidation of the Association or the Villas Association with each other or with another corporation as provided by law or a community development district (contemplated under Chapter 190, Florida Statutes (2006)) ("CDD"), the Association's or the Villas Association's rights, obligations and property may, by operation of law, be transferred to another surviving or consolidated association or CDD, or alternatively, remain the rights, obligations and property of the Association or the Villas Association as the surviving corporation. The surviving or consolidated corporation or CDD may administer this Declaration within the existing property together with the covenants and restrictions established upon any other property, as one common scheme.
- 16.4 **Dissolution.** If the Association or the Villas Association is dissolved other than by a merger or consolidation as provided for above, each Lot, Living Unit, Tract and Parcel shall continue to be subject to the Assessments and the Villas Assessments

provided for in Section 9 and Section 11.8, and each Owner shall continue to be personally obligated to Declarant or the successor or assigns of the Association and the Villas Association (as the case may be) for such Assessment and Villas Assessment to the extent that such Assessments and Villas Assessments are required to enable Declarant or any such successor or assigns acquiring any real property previously owned by the Association or the Villas Association to properly maintain, operate and preserve it.

16.5 **Gender; Number.** Wherever in this Declaration the context so requires, the singular number shall include the plural, and the converse; and the use of any one gender shall be deemed to include both genders.

16.6 **Notices.**

- (A) **To Declarant.** Notices to Declarant as may be required herein shall be in writing and delivered or mailed to Declarant at its principal place of business as shown by the records of the State of Florida, Secretary of State, or at any other location designated by Declarant.
- (B) **To the Association.** Notices to the Association shall be in writing and delivered or mailed to the Association at its principal place of business as shown by the records of the State of Florida, Secretary of State, or at any other location designated by the Association.
- (C) **To Owners.** Notices to any Owner as may be required herein shall be in writing and shall be delivered or mailed to the Owner at his last known address, or at the address shown on the deed recorded in the public records of the County.
- (D) **To MX.** Notices to MX as may be required herein shall be in writing and shall be delivered or mailed to MX at its principal place of business as shown by the records of the State of Florida, Secretary of State, or at any other location designated by MX.
- (E) **To the Villas Association.** Notices to the Villas Association shall be in writing and delivered or mailed to the Villas Association at its principal place of business as shown by the records of the State of Florida, Secretary of State, or at any other location designated by the Villas Association.

- 16.7 **Construction.** The provisions of this Declaration shall be liberally interpreted and construed in favor of Developer to provide maximum flexibility consistent with the general development plan and the purposes set forth herein. In no event shall any ambiguity in this document be interpreted against Developer based upon the fact that Developer prepared this document. Any ambiguity shall be interpreted in such a fashion as to further the intent of Developer.
- 16.8 **Captions, Headings and Titles.** Captions, headings, capitalization of certain words and titles inserted throughout the Governing Documents and the Villas Covenants are for convenience only, and in no way shall such captions, headings or titles define, limit or in any way affect the subject matter, content or interpretation of the terms and provisions of the Governing Documents and the Villas Covenants.
- 16.9 **Interpretation.** Declarant, until the Turnover Date, and the Board of Directors thereafter, shall be responsible for interpreting the provisions of the Governing Documents. Their interpretation shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by the Association's legal counsel that an interpretation adopted by the Board of Directors is not wholly unreasonable shall conclusively establish the validity of such interpretation. Declarant, until the Villas Turnover Date, and the Villas Board of Directors thereafter, shall be responsible for interpreting the provisions of the Villas Covenants. Its interpretation shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by the Villas Association's legal counsel that an interpretation adopted by the Villas Board of Directors is not wholly unreasonable shall conclusively establish the validity of such interpretation.
- 16.10 **Applicable Statutes.** The validity, application and construction of this Declaration and its exhibits shall be governed by the laws of the State of Florida, as they exist on the date of recording this Declaration.
- 16.11 **Exhibits; Recitals.** All exhibits described herein and attached hereto are by this reference fully incorporated into and made a part of this Declaration. The recitals set forth above are true and correct and incorporated into the body of this Declaration by reference.
- 16.12 **Waiver of Enforcement.** If Developer, the Association, the Villas Association, MX or any combination thereof fails to enforce any provision of the Governing Documents or the Villas Covenants, as applicable, such failure shall not be deemed a waiver to

later enforcement by Developer, the Association, the Villas Association, MX or any combination thereof.

**17. HOUSING FOR OLDER PERSONS - 55 YEARS OF AGE OR OLDER COMMUNITY.**

- 17.1 **Purpose of Community.** The Community is intended to and operated for the purpose of providing housing for and occupancy by older persons. "Older Person" shall mean a person 55 years of age or older.
- 17.2 **Statutory Compliance.** The Community is intended to and operated for occupancy by Older Persons and the Community is subject to the Federal Fair Housing Act, the Florida Fair Housing Act, the Housing for Older Persons Act of 1995, and the regulations of the United States Department of Housing and Urban Development ("HUD"), as amended from time to time, and any and all other local, state, and federal statutes and regulations pertaining to the Fair Housing Act. Developer and the Board of Directors after Developer owns no Lots in the Community, shall take the steps necessary to qualify as housing for Older Persons to be exempt from the prohibition against familial status discrimination as provided for in the applicable statutes, laws and regulations.
- 17.3 **Community Requirements.** The Community shall comply with and satisfy the following factors and requirements: (i) at least eighty percent (80%) of the occupied Living Units shall be occupied by at least one (1) Older Person; (ii) the Community shall publish and adhere to policies and procedures that demonstrate the intent to operate the Community for occupancy by Older Persons; and (iii) the Community shall comply with rules issued by the Secretary of HUD for verification of occupancy, including verification by reliable surveys and affidavits. Additionally, the Community shall prohibit any person under 18 years of age from residing upon any Lot or in any Living Unit in the Community as a Permanent Resident (as defined in the immediately subsequent sentence). "Permanent Resident" shall mean any person who continuously resides upon any Lot or in any Living Unit for a period of thirty (30) days or more.
- 17.4 **Community Filing Requirement.** The Community shall register with the Florida Commission on Human Relations ("Commission") by submitting the necessary documentation to the Commission pursuant to the requirements in the Florida Statutes, as amended from time to time.

- 17.5 **Age Verification.** Admission to the Community as a resident shall be subject to the terms and conditions of Section 17 of this Declaration, specifically including, but without limitation, the requirement that at least eighty percent (80%) of the occupied Living Units shall be occupied by at least one (1) Older Person. Further, all other residents occupying a Living Unit must be 40 years of age or older. Upon application for residency, any one or more of the following documents are considered reliable documentation of the age of the applicants: (i) Driver's license; (ii) Birth certificate; (iii) Passport; (iv) Immigration card; (v) Military identification; (vi) Any other state, local, national or international official documents containing a birth date of comparable reliability; or (vii) A certification in a Lease, application, affidavit or other document signed by any member of the Living Unit 40 years of age or older asserting that at least one (1) person in the Living Unit is an Older Person. Any one or more of the foregoing forms of identification and age verification, shall be considered as adequate for verification of age, provided that it contains specific information about current age or date of birth. Notwithstanding the foregoing or anything to the contrary contained herein, the Developer or the Board of Directors after the Developer owns no Lots in the Community, may allow an individual under the age of 40 to reside in a Living Unit in accordance with and subject to the following: (i) such individual is disabled to the extent that such individual is dependent upon the care of another who resides in the Living Unit (as such disability and dependency is reasonably evidenced in writing by a licensed physician that has examined such individual); (ii) such individual is at least 18 years of age or older; (iii) at least one (1) Older Person is occupying the Living Unit, and all other persons occupying the Living Unit are 40 years of age or older; and (iv) the Community is still able to comply with the requirements as set forth in Section 17.3 hereof.
- 17.6 **Age Verification Policies and Procedures.** Developer or the Board of Directors after Developer owns no Lots in the Community, shall establish and maintain appropriate policies and procedures to require that applicants and Occupants comply with the age verification procedures as set forth in the Governing Documents. If the Occupants of a particular Living Unit refuse to comply with the age verification procedures, Developer or the Board of Directors may, if it has sufficient evidence, consider the Living Unit to be occupied by at least one (1) Older Person. Such evidence may include: (i) Government records or documents, such as a local household census; (ii) prior forms or applications; or (iii) a statement from an individual who has personal knowledge of the age of the Occupants. The individual's statement must set forth the basis for such knowledge and be signed under the penalty of perjury.

- 17.7 **Exceptions to Age Restriction.** Developer or the Board of Directors after Developer owns no Lots in the Community, may make exceptions in its sole and absolute discretion and allow the residence of persons in the Community who do not satisfy the age restrictions so long as the Community complies with the requirements to qualify as housing for older persons as set forth in Section 17.3 hereof, including without limitation, that at least eighty percent (80%) of the Living Units are occupied by at least one (1) Older Person. The term "age restrictions" as utilized in this Section 17.7 shall mean the requirement that at least eighty percent (80%) of the occupied Living Units shall be occupied by at least one (1) Older Person, and all other residents occupying a Living Unit must be 40 years of age or older. Notwithstanding the foregoing and anything to the contrary contained herein, no person under 18 years of age may reside upon any Lot or in any Living Unit as a Permanent Resident.
- 17.8 **Occupancy Requirement.** The Community shall be deemed to satisfy the occupancy requirement, so long as eighty percent (80%) of the occupied Living Units are occupied by at least one (1) Older Person even though the following conditions exist: (i) there are unoccupied Living Units; (ii) there are Living Units occupied by employees of the Community (and family members residing in the same Living Unit) who are under 55 years of age, provided the employees perform substantial duties related to the management or maintenance of the Community; or (iii) there are Living Units occupied by persons who are necessary to provide a reasonable accommodation to disabled residents as required, subject to the terms and conditions of this Declaration, and who are under the age of 55.
- 17.9 **Policies and Procedures.** Developer, and the Board of Directors after Developer owns no Lots in the Community, shall publish and adhere to policies and procedures that demonstrate the intent of the Community to operate as housing for Older Persons. The policies and procedures may include, without limitation, the following: (i) advertising, marketing and promotion of the Community; (ii) Lease restrictions; (iii) written rules, regulations, or other restrictions, including this Declaration; (iv) the maintenance and consistent application of relevant procedures; and (v) public posting in Common Areas of statements describing the Community as housing for Older Persons.
- 17.10 **Verification of Occupancy.** Developer, and the Board of Directors after Developer owns no Lots in the Community, shall develop procedures for routinely determining the occupancy of the Living Units, including the identification of the age of each Occupant of each Living Unit, so as to verify that at least eighty percent (80%) of the occupied Living Units are occupied by at least one (1) Older Person. These

procedures may be part of the normal purchasing arrangement. The documents as set forth in Section 17.5 shall be considered reliable documentation of the age of the applicants. The Community procedures shall provide for regular updates, through surveys or other means, of the initial information supplied by the Occupants of the Community. Said updates shall take place at least once every two (2) years, and the survey may include information regarding whether any Living Units are occupied by persons described in the provisions designated as (ii) and (iii) of Section 17.8. Surveys and verification procedures which comply with statutory requirements and regulations including those of HUD, shall be admissible in administrative and judicial proceedings for the purpose of verifying occupancy. A summary of occupancy surveys, as applicable, shall be available for inspection upon reasonable notice and request by any person.

- 17.11 **Conveyance or Transfer of Living Unit.** If an Owner desires to convey their Living Unit, said Owner shall comply with the provisions of this Declaration and the Governing Documents and the Villas Covenants so that the Living Unit is conveyed in accordance with the intent and purpose of the Community that at least eighty percent (80%) of the occupied Living Units shall be occupied by at least one (1) Older Person, and all other residents who will Occupy the Living Unit shall be 40 years of age or older. Notwithstanding the foregoing, and subject to the terms and conditions of this Declaration, if a Living Unit is transferred via inheritance or otherwise to a person under 55 years of age, including without limitation, a child or surviving spouse, said person shall be entitled to Occupy the Living Unit for as long as they choose to do so, but only so long as said person is 40 years of age or older, and so long as at least eighty percent (80%) of the occupied Living Units in the Community are occupied by at least one (1) Older Person. If a person acquires a Living Unit in the manner discussed in the immediately preceding sentence, and at some point in time chooses to convey the Living Unit, the Living Unit shall be conveyed in accordance with the first sentence of this Section 17.11.
- 17.12 **Prohibition Against Amendment or Revocation.** The provisions of this Section 17 shall not be subject to amendment or revocation except as may be required by applicable law.
- 17.13 **Children.** Notwithstanding anything to the contrary contained in this Declaration, Children and other individuals under 40 years of age are not acceptable in the Community, except for visitation of not more than fifteen (15) consecutive days or thirty (30) total days per calendar year. Owners and their invitees, Guests and tenants, all as the case may be, are responsible for the behavior of visiting Children, and shall

properly supervise Children, including without limitation, in or around any Common Areas or recreational facilities. The term "Children" as utilized in this Section 17.13 means a person who is under 18 years of age.

**Rights Limited to Express Terms of Governing Documents.** Every Member acknowledges that his or her rights, duties or obligations are limited to the express terms of the Governing Documents as they may be amended from time to time. Every prospective Member should make his decision to purchase within the Community based upon the representations as set out in the Governing Documents which contain the entire understanding of the parties and no prior or present agreements or representations shall be binding upon Declarant unless included in the Governing Documents.

**Rights Limited to Express Terms of Villas Covenants.** Every Villas Member acknowledges that his or her rights, duties or obligations are limited to the express terms of the Villas Covenants as they may be amended from time to time. Every prospective Villas Member should make his decision to purchase within the Villas based upon the representations as set out in the Villas Covenants which contain the entire understanding of the parties and no prior or present agreements or representations shall be binding upon Declarant unless included in the Villas Covenants.

*[SIGNATURES TO FOLLOW ON SUBSEQUENT PAGES]*

IN WITNESS WHEREOF, BAYTREE PARTNERS, LLC, a Florida limited liability company, hereby executes this Master Declaration of Covenants, Conditions and Restrictions for Vienna Square effective the day and year first set forth above, and VIENNA SQUARE HOMEOWNERS' ASSOCIATION, INC., a Florida not for profit corporation, THE VILLAS AT VIENNA SQUARE HOMEOWNERS' ASSOCIATION, INC., a Florida not for profit corporation, and MX COMMUNICATION SERVICES, LLC, a Florida limited liability company join in this Master Declaration of Covenants, Conditions and Restrictions for Vienna Square to the extent each has rights hereunder and as expressly set forth herein effective the day and year first set forth above.

Witnesses:

**"DECLARANT"**

Susan L Stone  
Print Name: SUSAN L STONE

BAYTREE PARTNERS, LLC, a Florida limited liability company

By: CRF Management Co., Inc., a Florida corporation, its managing member

Gloria J White  
Print Name: GLORIA J WHITE

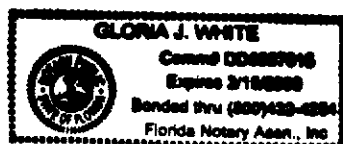
By: [Signature]  
Print Name: LAWRENCE T. MAXWELL  
Title: PRESIDENT

STATE OF FLORIDA  
COUNTY OF POLK

The foregoing instrument was executed before me this 19 day of DECEMBER, 2006, by LAWRENCE T MAXWELL as PRESIDENT of CRF Management Co., Inc., a Florida corporation, the managing member of Baytree Partners, LLC, a Florida limited liability company. He is personally known to me.

[Signature]  
Notary Public, State of Florida

(SEAL)



Witnesses:

“ASSOCIATION”

VIENNA SQUARE HOMEOWNERS’  
ASSOCIATION, INC., a Florida not  
for profit corporation

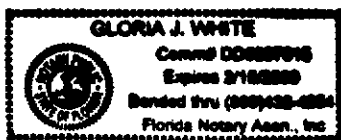
Susan L Stone  
Print Name: Susan L Stone

Gloria J White  
Print Name: GLORIA J WHITE

By: Lawrence T Maxwell  
Print Name: LAWRENCE T. MAXWELL  
Title: A DIRECTOR

STATE OF FLORIDA  
COUNTY OF POLK

The foregoing instrument was executed before me this 1<sup>st</sup> day of DECEMBER, 2006,  
by LAWRENCE T MAXWELL as DIRECTOR of Vienna Square  
Homeowners’ Association, Inc., a Florida not for profit corporation. He is personally known to me.



Gloria J White  
Notary Public, State of Florida

(SEAL)

Witnesses:

**"VILLAS ASSOCIATION"**

THE VILLAS AT VIENNA SQUARE  
HOMEOWNERS' ASSOCIATION, INC., a  
Florida not for profit corporation

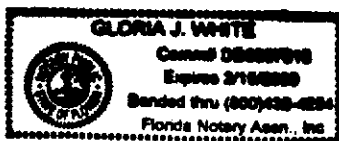
Susan L Stone  
Print Name: Susan L Stone

Gloria J White  
Print Name: GLORIA J WHITE

By: Laurence T Maxwell  
Print Name: LAURENCE T. MAXWELL  
Title: A DIRECTOR

STATE OF FLORIDA  
COUNTY OF POLK

The foregoing instrument was executed before me this 1<sup>st</sup> day of DECEMBER, 2006,  
by LAURENCE T MAXWELL as DIRECTOR of The Villas at Vienna  
Square Homeowners' Association, Inc., a Florida not for profit corporation. He is personally known  
to me.



Gloria J White  
Notary Public, State of Florida

(SEAL)

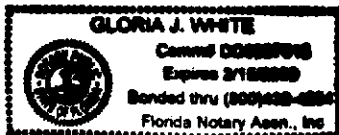
Witnesses:

Susan L Stone  
Print Name: Susan L Stone

Gloria J White  
Print Name: GLORIA J WHITE

STATE OF FLORIDA  
COUNTY OF POLK

The foregoing instrument was executed before me this 1<sup>st</sup> day of DECEMBER 2006, by LAWRENCE T MAXWELL as PRESIDENT of CRF Management Co., Inc., a Florida corporation, the manager of MX Communication Services, LLC, a Florida limited liability company. He is personally known to me.



“MX”

MX COMMUNICATION SERVICES, LLC,  
a Florida limited liability company

By: CRF Management Co., Inc., a Florida  
corporation, its managing member

By: [Signature]  
Print Name: LAWRENCE T. MAXWELL  
Title: PRESIDENT

Gloria J White  
Notary Public, State of Florida

(SEAL)

## **EXHIBIT "A"**

**(Page 1 of 2)**

### **LEGAL DESCRIPTION OF THE LANDS**

That part of Lots 4, 5, 6, 7, 8 and 9 of Florida Highland Company as recorded in Plat Book 3, page 27, Public Records of Polk County, Florida lying in the south half of Section 26, Township 28 South, Range 26 East, Polk County, Florida and that part of Lot 3 of said Florida Highland Company in Section 35, Township 28 South, Range 26 East, Polk County, Florida, all being more particularly described as follows:

Begin at the southwest corner of the southeast quarter of the southwest quarter of said Section 26; thence North 00°09'26" West along the west line of said Lot 8 a distance of 671.32 feet; thence North 90°00'00" East a distance of 2717.51 feet; thence North 28°57'20" East a distance of 28.57 feet; thence North 90°00'00" East a distance of 365.71 feet; thence South 00°00'00" East a distance 9.08 feet; thence South 25°36'48" East a distance of 6.06 feet thence South 72°26'48" East a distance of 221.98 feet; thence South 21°35'14" West a distance of 14.79 feet; thence S 60°58'04" E a distance of 8.17 feet; thence South 29°31'26" West a distance of 167.07 feet; thence South 43°35'57" West a distance of 154.36 feet; thence South 38°58'46" East a distance of 38.50 feet to a point on a curve concave to the south and having a radius of 90.00 feet; thence southeast along said curve to the right through a central angle of 5°57'24" an arc distance of 9.36 feet; (chord = 9.36 feet, bearing = South 63°58'08" East); thence South 60°59'26" East a distance of 118.93 feet to the beginning of a curve concave to the north and having a radius of 50.00 feet; thence east along said curve to the left through a central angle of 89°59'18" an arc distance of 78.53 feet; (chord = 70.70 feet, bearing = North 73°59'56" East); thence S 60°59'26" E a distance of 13.30 feet to a point on the westerly right of way of County Road 550 (formerly State Road 542); thence South 29°00'34" West along said westerly right of way line a distance of 160.00 feet; thence N 60°59'26" W a distance of 13.30 feet to the beginning of a curve concave to the southwest and having a radius of 50.00 feet; thence northwest along said curve to the left through a central angle of 90°06'38" an arc distance of 78.64 feet (chord = 70.78 feet, bearing = North 16°02'44" West); thence North 60°59'26" West a distance of 118.83 feet to the beginning of a curve concave to the south and having a radius of 50.00 feet; thence west along said curve to the left through a central angle of 90°00'00" an arc distance of 78.54 feet (chord = 70.71 feet, bearing = South 74°00'34" West); thence South 29°00'34" West a distance of 194.66 feet to the beginning of a curve concave to the northwest and having a radius of 90.00 feet; thence southwest along said curve to the right through a central angle of 60°26'02" an arc distance of 94.93 feet (chord = 90.59 feet, bearing = South 59°13'35" West) to the

**[CONTINUED ON SUBSEQUENT PAGE]**

**EXHIBIT "A"**

**(Page 2 of 2)**

south line of said Section 26; thence South  $89^{\circ}26'36''$  West along said south line a distance of 224.68 feet; thence S  $00^{\circ}30'06''$  E along the east line of said Lot 3 a distance of 962.25 feet to the north right of way line of County Road 550 (formerly State Road 542) thence south and west along said north right of way line the following (3) three courses: (1) thence South  $28^{\circ}59'04''$  West a distance of 213.27 feet to the beginning of a curve concave to the northwest and having a radius of 285.67 feet; (2) thence southwest along curve to the right through a central angle of  $60^{\circ}45'20''$ , an arc distance of 302.92 feet; (chord = 288.93 feet, bearing = South  $59^{\circ}22'58''$  West); (3) thence South  $89^{\circ}45'01''$  West a distance of 311.76 feet to the west line of said Lot 3 of Florida Highland Company in Section 35 and the east boundary of Overlook Estates East as recorded in Plat Book 87, page 46, Public Records of Polk County, Florida; thence North  $00^{\circ}29'28''$  West along said east boundary a distance of 1291.32 feet to the northeast corner of Overlook Estates East as recorded in Plat Book 87, page 46 of the public records of Polk County, Florida; thence South  $89^{\circ}28'59''$  West along the north boundary of said Overlook Estates East a distance of 666.47 feet to the northwest corner of said Overlook Estates East; thence South  $89^{\circ}51'48''$  West along the south line of said Section 26 a distance of 1328.20 feet to the Point of Beginning.

**EXHIBIT "B"**

**(Page 1 of 2)**

**LEGAL DESCRIPTION OF THE VILLAS LANDS**

That part of Lots 4, 5 and 9 of Florida Highland Company as recorded in Plat Book 3, page 27, Public Records of Polk County, Florida lying in the south half of Section 26, Township 28 South, Range 26 East, Polk County, Florida and that part of Lot 3 of said Florida Highland Company in Section 35, Township 28 South, Range 26 East, Polk County, Florida, all being more particularly described as follows:

Begin at the southeast corner of said Lot 5; thence S 89°29'31" W a distance of 565.88 feet; thence N 00°00'00" W a distance of 39.52 feet; thence N 89°26'36" E a distance of 128.38 feet; thence N 00°00'00" E a distance of 100.00 feet; thence N 47°35'15" E a distance 95.56 feet; thence N 02°17'54" E a distance of 37.94 feet; thence N 61°02'04" E a distance of 39.39 feet; thence N 04°12'10" E a distance of 100.15 feet; thence N 12°27'36" W a distance of 17.05 feet; thence N 12°44'55" W a distance of 42.69 feet; thence N 04°38'05" E a distance of 117.03 feet; thence S 48°28'23" E a distance of 73.02 feet; thence S 65°50'45" E a distance of 107.64 feet; thence S 78°41'41" E a distance of 67.05 feet; thence S 66°56'07" E a distance of 50.95 feet; thence S 69°33'16" E a distance of 18.43 feet; thence S 81°55'10" E a distance of 102.91 feet; thence N 70°29'50" E a distance of 93.83 feet; thence S 81°15'11" E a distance of 35.36 feet; thence N 74°03'02" E a distance of 56.86 feet; thence N 72°31'32" E a distance of 79.19 feet; thence N 71°36'19" E a distance of 51.21 feet; thence N 26°23'12" E a distance of 54.54 feet; thence N 09°59'21" W a distance of 49.16 feet; thence N 20°23'11" E a distance of 57.08 feet; thence N 35°42'01" E a distance of 66.75 feet; thence S 25°36'48" E a distance of 6.06 feet; thence S 72°26'48" E a distance of 221.98 feet; thence S 21°35'14" W a distance of 14.79 feet; thence S 60°58'04" E a distance of 8.17 feet; thence S 29°31'26" W a distance of 167.07 feet; thence S 43°35'57" W a distance of 154.36 feet; thence S 38°58'46" E a distance of 38.50 feet to a point on a curve concave to the south and having a radius of 90.00 feet; thence southeast along said curve to the right through a central angle of 5°57'24" an arc distance of 9.36 feet; (chord = 9.36 feet, bearing = S 63°58'08" E); thence S 60°59'26" E a distance of 118.93 feet to the beginning of a curve concave to the north and having a radius of 50.00 feet; thence east along said curve to the left through a central angle of 89°59'18" an arc distance of 78.53 feet; (chord = 70.70 feet, bearing = N 73°59'56" E); thence S 60°59'26" E a distance of 13.30 feet to a point on the westerly right of way of County Road 550 (formerly State Road 542); thence S 29°00'34" W along said westerly right of way line a distance of 160.00 feet; thence N 60°59'26" W a distance of 13.30 feet to the beginning of a curve concave to the southwest and having a radius of 50.00 feet; thence northwest

**[CONTINUED ON SUBSEQUENT PAGE]**

**EXHIBIT "B"**

**(Page 2 of 2)**

along said curve to the left through a central angle of  $90^{\circ}06'38''$  an arc distance of 78.64 feet (chord = 70.78 feet, bearing = N  $16^{\circ}02'44''$  W); thence N  $60^{\circ}59'26''$  W a distance of 118.83 feet to the beginning of a curve concave to the south and having a radius of 50.00 feet; thence west along said curve to the left through a central angle of  $90^{\circ}00'00''$  an arc distance of 78.54 feet (chord = 70.71 feet, bearing = S  $74^{\circ}00'34''$  W); thence S  $29^{\circ}00'34''$  W a distance of 194.66 feet to the beginning of a curve concave to the northwest and having a radius of 90.00 feet; thence southwest along said curve to the right through a central angle of  $60^{\circ}26'02''$  an arc distance of 94.93 feet (chord = 90.59 feet, bearing = S  $59^{\circ}13'35''$  W) to the south line of said Section 26; thence S  $89^{\circ}26'36''$  W along said south line a distance of 224.68 feet to the Point of Beginning.

**EXHIBIT "C"**

**ARTICLES OF INCORPORATION OF VIENNA SQUARE HOMEOWNERS'  
ASSOCIATION, INC.**

**[ATTACHED HERETO]**

**EXHIBIT "C"**

FILED

06 JUN -8 PM 12:26

SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

**ARTICLES OF INCORPORATION  
OF  
VIENNA SQUARE HOMEOWNERS' ASSOCIATION, INC.  
A CORPORATION NOT FOR PROFIT**

In compliance with the requirements of the laws of the State of Florida, and for the purpose of forming a corporation not for profit, the undersigned does hereby acknowledge:

1. Name of Corporation. The name of the corporation is VIENNA SQUARE HOMEOWNERS' ASSOCIATION, INC. (the "Association").
2. Principal Office. The initial principal office of the Association is 500 South Florida Avenue, Suite 700, Lakeland, Florida 33801. The mailing address of the Association is 500 South Florida Avenue, Suite 700, Lakeland, Florida 33801.
3. Registered Office - Registered Agent. The street address of the Registered Office of the Association is 500 South Florida Avenue, Suite 800, Lakeland, Florida 33801. The name of the Registered Agent of the Association is Craig B. Hill.
4. Definitions. A declaration entitled Master Declaration of Covenants, Conditions and Restrictions for Vienna Square has been or will be recorded in the Public Records of Polk County, Florida (the "Declaration"), and shall govern all of the operations of a community to be commonly known as Vienna Square ("Community"). All initially capitalized terms not defined herein shall have the meanings ascribed thereto in the Declaration, unless otherwise defined herein.
5. Purpose of Association. The Association is formed to:
  - 5.1. Provide for operation, maintenance and improvement of the Common Areas, streets and improvements thereon.
  - 5.2. Provide for ownership, operation, maintenance and preservation of the Surface Water Management System Facilities.
  - 5.3. Perform the duties delegated to it in the Declaration.
  - 5.4. Administer the interests of the Association and the Owners.
  - 5.5. Promote the health, safety and welfare of the Owners.
  - 5.6. Collect Assessments and other amounts due, if any, to the Association and remit the same to the Association.

6. Not For Profit. The Association is a not for profit Florida corporation and does not contemplate pecuniary gain to, or profit for, its Members.
7. Powers of Association. The Association shall, subject to the limitations and reservations set forth in the Declaration, have all the powers, privileges and duties reasonably necessary to discharge its obligations, including, but not limited to the following:
  - 7.1. To perform all the duties and obligations of the Association set forth in the Declaration, these Articles of Incorporation ("Articles"), and the Bylaws of the Association ("Bylaws") and to take any other action necessary for the purposes for which the Association is organized.
  - 7.2. To enforce and interpret, by legal action or otherwise, the provisions of the Declaration, these Articles, and the Bylaws, and the rules, regulations, covenants, restrictions and agreements governing or binding the Association and the Community, either for the benefit of the Association, directly, or in conjunction with, or on behalf of, the Owners.
  - 7.3. To operate, maintain and improve the Common Areas and streets in the Community and to promote rules and regulations for use of the Common Areas and streets by the Owners.
  - 7.4. To operate and maintain the Surface Water Management System Facilities, which includes, without limitation, all inlets, ditches, swales, culverts, water control structures, retention and detention areas, ponds, lakes, floodplain compensation areas, wetlands and any associated buffer areas, and wetland mitigation areas, subject to the rules and regulations of Southwest Florida Water Management District.
  - 7.5. To fix, levy, collect and enforce payment, by any lawful means, of all Assessments payable to the Association pursuant to the terms of the Declaration, these Articles and the Bylaws.
  - 7.6. To fix, levy, collect, and enforce payment, by any lawful means, of all fines imposed in accordance with Florida Statutes, Chapter 617 and Florida Statutes, Chapter 720 and the terms of the Declaration, to maintain order within the Community and to encourage observance of the terms of the Declarations, these Articles and the Bylaws.
  - 7.7. To pay all Association expenses, including, but not limited to, all licenses, taxes or governmental charges levied or imposed against the Common Areas or other property owned by the Association.
  - 7.8. To acquire (by gift, purchase, or otherwise), annex, own, hold, improve, build upon, operate, maintain, convey, grant rights and easements, sell, dedicate, lease, transfer or

otherwise dispose of real or personal property (including the Common Areas) in connection with the functions of the Association except as limited by the Declaration.

- 7.9. To borrow money, and to mortgage, pledge or hypothecate any or all of its real or personal property as security for money or debts incurred.
- 7.10. To dedicate, grant, license, lease, create easements upon, sell or transfer all or any part of, the Common Areas to any public agency, entity, authority, utility, or other person or entity for such purposes and subject to such conditions as it determines subject only to requirements in the Declaration, if any.
- 7.11. To participate in mergers and consolidations with other not for profit corporations organized for the same purposes.
- 7.12. To employ personnel and retain independent contractors to contract for management of the affairs of the Association, the Community, the Surface Water Management System Facilities and the Common Areas, as provided in the Declaration and to delegate in such contract all or any part of the powers or duties of the Association.
- 7.13. To contract for services, if any, to be provided to, or for the benefit of, the Association, Owners, the Common Areas, the Surface Water Management System Facilities and the Community, as provided in the Declaration such as, but not limited to, maintenance, garbage pick-up and utility services.
- 7.14. To establish committees and delegate certain of its functions to those committees.
- 7.15. To sue and be sued.
- 7.16. To contract for services to be provided for operation and maintenance of the Surface Water Management System Facilities, if the Association contemplates employing a maintenance company.
- 7.17. To require all Owners to be Members of the Association.
- 7.18. To adopt, publish, promulgate or enforce rules, regulations, covenants, restrictions or agreements governing the Association, the Community, the Common Areas and the Surface Water Management System Facilities and to take any other action necessary for the purposes for which the Association is organized.

7.19. To have and to exercise any and all powers, rights and privileges which a not for profit corporation organized under the laws of the State of Florida may now, or hereafter, have or exercise.

8. Association Lawsuits. The Board of Directors shall have no duty to bring any suit against any party and the Board of Directors is permitted to apply a rule of reasonableness when determining whether to bring suit against any party.
9. Membership and Voting Rights. Each Owner and Declarant shall be a Member of the Association. Owners and Declarant shall have the voting rights set forth in the Declaration and the Bylaws; however, the Bylaws shall not be inconsistent with the Declaration.
10. Board of Directors. The affairs of the Association shall be managed by a board of directors having an odd number with not less than three (3) nor more than five (5) members ("Board of Directors" or "Directors"). The initial number of Directors shall be three (3). The names and addresses of the initial Directors of the Association are as follows:

Benjamin D.E.Falk	500 South Florida Avenue, Suite 700 Lakeland, Florida 33801
-------------------	--

Lawrence T. Maxwell	500 South Florida Avenue, Suite 700 Lakeland, Florida 33801
---------------------	--

Mark E. Schreiber	641 Carl Floyd Road Winter Haven, Florida 33881
-------------------	--

The members of the Board of Directors shall be appointed or elected as stated in the Bylaws. The initial members of the Board of Directors or successors of the initial members of the Board of Directors as appointed in the event of the removal or disability of one or all of said Directors, shall hold office until the next annual meeting of the Members, at which time the successors shall be elected. Each Director thereafter shall hold office until the next annual meeting of the Members and until his or her successor shall have been elected and qualified, or until removed by a majority vote of the Members for misfeasance or malfeasance, at a special meeting of the Members called for that purpose. However, notwithstanding the foregoing or anything to the contrary contained herein, the Declarant shall have the sole and exclusive right to elect and designate all of the Directors until the Turnover Date, as is set forth in the Declaration.

11. Dissolution. In the event of the dissolution of the Association other than incident to a merger or consolidation, any Owner may petition the Circuit Court having jurisdiction over the Community for the appointment of a receiver to manage the affairs of the dissolved Association and to manage the Surface Water Management System Facilities and Common Areas and any real property

owned by the Association in the place and stead of the Association, and to make such provisions as may be necessary for the continued management of the affairs of the dissolved Association and its properties.

12. Duration. The Association shall have perpetual existence; however, if the Association is dissolved, the control or right of access to the property containing the Surface Water Management System Facilities shall be conveyed or dedicated to an appropriate governmental unit or public utility and that if not accepted, then the Surface Water Management System Facilities shall be conveyed to a not for profit corporation similar to the Association.

13. Amendments.

- 13.1. General Restriction on Amendments. Notwithstanding any other provision herein to the contrary, no amendment to these Articles shall affect the rights of Declarant unless such amendment receives the prior written consent of Declarant, which consent may be withheld for any reason whatsoever.

- 13.2. Amendments Prior to the Turnover Date. Prior to the Turnover Date, as defined in the Declaration, Declarant shall have the right to amend these Articles as it deems appropriate, without the joinder or consent of any person or entity whatsoever. Declarant's right to amend under this Section is to be construed as broadly as possible. In the event that the Association shall desire to amend these Articles prior to the Turnover Date, the Association must first obtain Declarant's prior written consent to any proposed amendment, which consent may be withheld for any reason whatsoever. After receiving the Declarant's consent to the proposed amendment, an amendment identical to that approved by Declarant may be adopted by the Association pursuant to the requirements for amendments from and after the Turnover Date. After approval of the amendment by the Board of Directors, Declarant shall join in such identical amendment.

- 13.3. Amendments After the Turnover Date. After the Turnover Date, but subject to the general restrictions on amendments set forth above, these Articles may be amended at an annual or special meeting called for that purpose by the approval of at least two-thirds (66 2/3 %) of the Board of Directors or the membership of the Association, provided that notice of the text of each proposed amendment was sent to the Members with notice of the meeting.

14. Limitations.

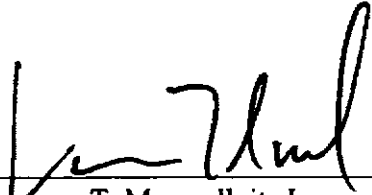
- 14.1. Declaration is Paramount. No amendment may be made to these Articles which shall in any manner reduce, amend, affect or modify the terms, conditions, provisions, rights and obligations set forth in the Declaration.

14.2. Rights of Declarant. There shall be no amendment to these Articles which shall abridge, reduce, amend, affect or modify the rights of Declarant.

14.3 Bylaws. These Articles shall not be amended in a manner that conflicts with the Bylaws.

15. Officers. The Board of Directors shall elect a President, Secretary, Treasurer and as many Vice Presidents, Assistant Secretaries and Assistant Treasurers ("Officer" or "Officers") as the Board of Directors shall from time to time determine. Officers shall be appointed or elected as stated in the Bylaws.
16. Indemnification of Officers and Directors. The Association shall and does hereby indemnify and hold harmless every Director and every Officer, their heirs, executors and administrators, against all loss, cost and expenses reasonably incurred in connection with any action, suit or proceeding to which such Director or Officer may be made a party by reason of being or having been a Director or Officer of the Association, including reasonable counsel fees and paraprofessional fees at all levels of proceeding. This indemnification shall not apply to matters wherein the Director or Officer shall be finally adjudged in such action, suit or proceeding to be liable for or guilty of gross negligence or willful misconduct. The foregoing rights shall be in addition to, and not exclusive of, all other rights to which such Director or Officer may be entitled.
17. Transactions in Which Directors or Officers are Interested. No contract or transaction between the Association and one (1) or more of its Directors or Officers or Declarant, or between the Association and any other corporation, partnership, association or other organization in which one (1) or more of its Officers or Directors are officers, directors or employees or otherwise interested shall be invalid, void or voidable solely for this reason, or solely because the Officer or Director is present at, or participates in, a meeting of the Board of Directors thereof which authorized the contract or transaction, or solely because said Officers' or Directors' votes are counted for such purpose. No Director or Officer of the Association shall incur liability by reason of the fact that such Director or Officer may be interested in any such contract or transaction. Interested Directors shall disclose the general nature of their interest and may be counted in determining the presence of a quorum at a meeting of the Board of Directors which authorized the contract or transaction.
18. Severability. Invalidity of any of the provisions of these Articles by judgment or court order shall in no way effect any other provision, and the remainder of these Articles shall remain in full force and effect.
19. Conflicts. In the case of any conflict between the Bylaws and these Articles, these Articles shall control; in the case of any conflict between the Declaration and these Articles, the Declaration shall control.

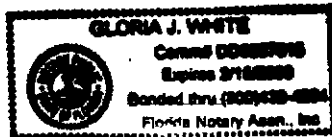
IN WITNESS WHEREOF, I, the undersigned subscribing incorporator, have hereunto set my hand and seal this 7th day of June, 2006, for the purpose of forming this corporation not for profit under the laws of the State of Florida.

  
\_\_\_\_\_  
Lawrence T. Maxwell, its Incorporator

Address: 500 South Florida Avenue, Suite 700  
Lakeland, Florida 33801

STATE OF FLORIDA  
COUNTY OF POLK

The foregoing Articles of Incorporation were acknowledged before me this 7th day of JUNE, 2006, by Lawrence T. Maxwell, as incorporator of VIENNA SQUARE HOMEOWNERS' ASSOCIATION, INC., a Florida not for profit corporation who is personally known to me.



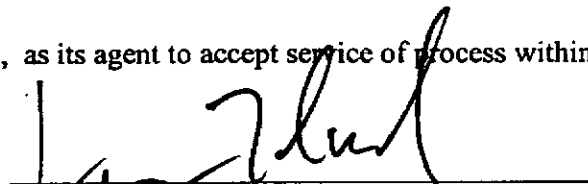
  
\_\_\_\_\_  
Notary Public, State of Florida at Large

(SEAL)

**CERTIFICATE DESIGNATING PLACE OF BUSINESS OR DOMICILE FOR THE  
SERVICE OF PROCESS WITHIN THIS STATE, NAMING AGENT UPON WHOM  
PROCESS MAY BE SERVED**

Pursuant to Florida Statutes, Chapter 48.091 and Chapter 617.0501, the following is submitted:

That VIENNA SQUARE HOMEOWNERS' ASSOCIATION, INC., desiring to organize under the laws of the State of Florida with its principal office as indicated in the Articles of Incorporation, at 500 South Florida Avenue, Suite 700, Lakeland, Florida 33801, has named Craig B. Hill, 500 South Florida Avenue, Suite 800, Lakeland, Florida 33801, as its agent to accept service of process within this state.

  
Lawrence T. Maxwell, Its Incorporator

**ACKNOWLEDGMENT:**

Having been named to accept service of process for the above-stated corporation, at the place designated in this certificate, I am familiar with and hereby accept the appointment as registered agent and agree to act in this capacity.

  
Craig B. Hill, Registered Agent

FILED  
06 JUN -8 PM 12:26  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

**EXHIBIT "D"**

**ARTICLES OF INCORPORATION OF THE VILLAS AT VIENNA SQUARE  
HOMEOWNERS' ASSOCIATION, INC.**

**[ATTACHED HERETO]**

**EXHIBIT "D"**  
**ARTICLES OF INCORPORATION**  
**OF**  
**THE VILLAS AT VIENNA SQUARE HOMEOWNERS' ASSOCIATION, INC.**  
**A CORPORATION NOT FOR PROFIT**

FILED  
06 JUN -8 PM 12:01  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

In compliance with the requirements of the laws of the State of Florida, and for the purpose of forming a corporation not for profit, the undersigned does hereby acknowledge:

1. Name of Corporation. The name of the corporation is THE VILLAS AT VIENNA SQUARE HOMEOWNERS' ASSOCIATION, INC. (the "Villas Association").
2. Principal Office. The initial principal office of the Villas Association is 500 South Florida Avenue, Suite 700, Lakeland, Florida 33801. The mailing address of the Villas Association is 500 South Florida Avenue, Suite 700, Lakeland, Florida 33801.
3. Registered Office - Registered Agent. The street address of the Registered Office of the Villas Association is 500 South Florida Avenue, Suite 800, Lakeland, Florida 33801. The name of the Registered Agent of the Villas Association is Craig B. Hill.
4. Definitions. A declaration entitled Master Declaration of Covenants, Conditions and Restrictions for Vienna Square has been or will be recorded in the Public Records of Polk County, Florida (the "Declaration"), and shall govern all of the operations of a community to be commonly known as The Villas at Vienna Square ("Villas"). All initially capitalized terms not defined herein shall have the meanings ascribed thereto in the Declaration, unless otherwise defined herein.
5. Purpose of the Villas Association. The Villas Association is formed to:
  - 5.1. Provide for ownership, operation, maintenance and preservation of the Surface Water Management System Facilities. Notwithstanding the foregoing and anything to the contrary contained herein, the rights and obligations of the Villas Association pertaining to the Surface Water Management System Facilities, including without limitation, the operation and maintenance thereof, shall only be applicable at such time and to the extent that the Villas Association becomes responsible for same. The Vienna Square Homeowners' Association, a Florida not for profit corporation ("Association") shall initially be responsible for the operation and maintenance of the Surface Water Management System Facilities, subject to the terms and conditions of the Declaration.
  - 5.2. Perform the duties delegated to it in the Declaration.
  - 5.3. Administer the interests of the Villas Association and the Villas Owners.

- 5.4. Promote the health, safety and welfare of the Villas Owners.
- 5.5. Collect Villas Assessments and other amounts due, if any, to the Villas Association and remit the same to the Villas Association.
- 6. Not For Profit. The Villas Association is a not for profit Florida corporation and does not contemplate pecuniary gain to, or profit for, the Villas Members.
- 7. Powers of the Villas Association. The Villas Association shall, subject to the limitations and reservations set forth in the Declaration, have all the powers, privileges and duties reasonably necessary to discharge its obligations, including, but not limited to the following:
  - 7.1. To perform all the duties and obligations of the Villas Association set forth in the Declaration, these Articles of Incorporation ("Villas Articles"), and the Bylaws of the Villas Association ("Villas Bylaws") and to take any other action necessary for the purposes for which the Villas Association is organized.
  - 7.2. To enforce and interpret, by legal action or otherwise, the provisions of the Declaration, these Villas Articles, and the Villas Bylaws, and the rules, regulations, covenants, restrictions and agreements governing or binding the Villas Association and the Villas, either for the benefit of the Villas Association, directly, or in conjunction with, or on behalf of, the Villas Owners.
  - 7.3. As and if applicable, to operate and maintain the Surface Water Management System Facilities, which includes, without limitation, all inlets, ditches, swales, culverts, water control structures, retention and detention areas, ponds, lakes, floodplain compensation areas, wetlands and any associated buffer areas, and wetland mitigation areas, subject to the rules and regulations of SWFWMD.
  - 7.4. To fix, levy, collect and enforce payment, by any lawful means, of all Villas Assessments payable to the Villas Association pursuant to the terms of the Declaration, these Villas Articles and the Villas Bylaws.
  - 7.5. To fix, levy, collect, and enforce payment, by any lawful means, of all fines imposed in accordance with Florida Statutes, Chapter 617 and Florida Statutes, Chapter 720 and the terms of the Declaration, to maintain order within the Villas and to encourage observance of the terms of the Declaration, these Villas Articles and the Villas Bylaws.
  - 7.6. To pay all Villas Association expenses, including, but not limited to, all licenses, taxes or governmental charges levied or imposed against property owned by the Villas Association.

- 7.7. To acquire (by gift, purchase, or otherwise), annex, own, hold, improve, build upon, operate, maintain, convey, grant rights and easements, sell, dedicate, lease, transfer or otherwise dispose of real or personal property in connection with the functions of the Villas Association except as limited by the Declaration.
- 7.8. To borrow money, and to mortgage, pledge or hypothecate any or all of its real or personal property as security for money or debts incurred.
- 7.9. To participate in mergers and consolidations with other not for profit corporations organized for the same purposes.
- 7.10. To employ personnel and retain independent contractors to contract for management of the affairs of the Villas Association, the Villas and the Surface Water Management System Facilities, as provided in the Declaration and to delegate in such contract all or any part of the powers or duties of the Villas Association.
- 7.11. To contract for services, if any, to be provided to, or for the benefit of, the Villas Association, Villas Owners, the Surface Water Management System Facilities and the Villas, as provided in the Declaration such as, but not limited to, maintenance, garbage pick-up and utility services.
- 7.12. To establish committees and delegate certain of its functions to those committees.
- 7.13. To sue and be sued.
- 7.14. To contract for services to be provided for operation and maintenance of the Surface Water Management System Facilities, as applicable, and if the Villas Association contemplates employing a maintenance company.
- 7.15. To require all Villas Owners to be Villas Members of the Villas Association.
- 7.16. To adopt, publish, promulgate or enforce rules, regulations, covenants, restrictions or agreements governing the Villas Association, the Villas and the Surface Water Management System Facilities and to take any other action necessary for the purposes for which the Villas Association is organized.
- 7.17. To have and to exercise any and all powers, rights and privileges which a not for profit corporation organized under the laws of the State of Florida may now, or hereafter, have or exercise.

8. Villas Association Lawsuits. The Villas Board of Directors shall have no duty to bring any suit against any party and the Villas Board of Directors is permitted to apply a rule of reasonableness when determining whether to bring suit against any party.
9. Membership and Voting Rights. Each Villas Owner and Declarant shall be a Villas Member of the Villas Association. Villas Owners and Declarant shall have the voting rights set forth in the Declaration and the Villas Bylaws, however, the Villas Bylaws shall not be inconsistent with the Declaration.
10. Villas Board of Directors. The affairs of the Villas Association shall be managed by a board of directors having an odd number with not less than three (3) nor more than five (5) members ("Villas Board of Directors" or "Villas Directors"). The initial number of Villas Directors shall be three (3). The names and addresses of the initial Villas Directors are as follows:

Benjamin D.E. Falk	500 South Florida Avenue, Suite 700 Lakeland, Florida 33801
--------------------	--

Lawrence T. Maxwell	500 South Florida Avenue, Suite 700 Lakeland, Florida 33801
---------------------	--

Mark Schreiber	641 Carl Floyd Road Winter Haven, Florida 33881
----------------	--

The members of the Villas Board of Directors shall be appointed or elected as stated in the Villas Bylaws. The initial members of the Villas Board of Directors or successors of the initial members of the Villas Board of Directors, as appointed in the event of the removal or disability of one or all of said Villas Directors, shall hold office until the next annual meeting of the Villas Members, at which time the successors shall be elected. Each Villas Director thereafter shall hold office until the next annual meeting of the Villas Members and until his or her successor shall have been elected and qualified, or until removed by a majority vote of the Villas Members for misfeasance or malfeasance, at a special meeting of the Villas Members called for that purpose. However, notwithstanding the foregoing or anything to the contrary contained herein, the Declarant shall have the sole and exclusive right to elect and designate all of the members of the Villas Board of Directors until the Villas Turnover Date, as is set forth in the Declaration.

11. Dissolution. In the event of the dissolution of the Villas Association other than incident to a merger or consolidation, any Villas Owner may petition the Circuit Court having jurisdiction over the Villas for the appointment of a receiver to manage the affairs of the dissolved Villas Association and to manage the Surface Water Management System Facilities (if the Villas Association is then responsible for the management of same) and any real property owned by the Villas Association

in the place and stead of the Villas Association, and to make such provisions as may be necessary for the continued management of the affairs of the dissolved Villas Association and its properties.

12. Duration. The Villas Association shall have perpetual existence; however, if the Villas Association is dissolved, the control or right of access to the property containing the Surface Water Management System Facilities shall be conveyed or dedicated to an appropriate governmental unit or public utility and that if not accepted, then the Surface Water Management System Facilities shall be conveyed to a not for profit corporation similar to the Villas Association, all as applicable.

13. Amendments.

- 13.1. General Restriction on Amendments. Notwithstanding any other provision herein to the contrary, no amendment to these Villas Articles shall affect the rights of Declarant unless such amendment receives the prior written consent of Declarant, which consent may be withheld for any reason whatsoever.

- 13.2. Amendments Prior to the Villas Turnover Date. Prior to the Villas Turnover Date, as defined in the Declaration, Declarant shall have the right to amend these Villas Articles as it deems appropriate, without the joinder or consent of any person or entity whatsoever. Declarant's right to amend under this Section is to be construed as broadly as possible. In the event that the Villas Association shall desire to amend these Villas Articles prior to the Villas Turnover Date, the Villas Association must first obtain Declarant's prior written consent to any proposed amendment, which consent may be withheld for any reason whatsoever. After receiving the Declarant's consent to the proposed amendment, an amendment identical to that approved by Declarant may be adopted by the Villas Association pursuant to the requirements for amendments from and after the Villas Turnover Date. After approval of the amendment by the Villas Board of Directors, Declarant shall join in such identical amendment.

- 13.3. Amendments After the Villas Turnover Date. After the Villas Turnover Date, but subject to the general restrictions on amendments set forth above, these Villas Articles may be amended at an annual or special meeting called for that purpose by the approval of at least two-thirds (66 2/3 %) of the Villas Board of Directors or the membership of the Villas Association, provided that notice of the text of each proposed amendment was sent to the Villas Members with notice of the meeting.

14. Limitations.

14.1. Declaration is Paramount. No amendment may be made to these Villas Articles which shall in any manner reduce, amend, affect or modify the terms, conditions, provisions, rights and obligations set forth in the Declaration.

14.2. Rights of Declarant. There shall be no amendment to these Villas Articles which shall abridge, reduce, amend, affect or modify the rights of Declarant.

14.3. Villas Bylaws. These Villas Articles shall not be amended in a manner that conflicts with the Villas Bylaws.

15. Officers. The Villas Board of Directors shall elect a President, Secretary, Treasurer and as many Vice Presidents, Assistant Secretaries and Assistant Treasurers ("Villas Officer" or "Villas Officers") as the Villas Board of Directors shall from time to time determine. Villas Officers shall be appointed or elected as stated in the Villas Bylaws.

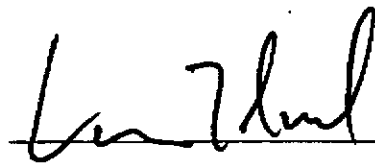
16. Indemnification of Villas Officers and the Villas Board of Directors. The Villas Association shall and does hereby indemnify and hold harmless the Villas Directors and every Villas Officer, their heirs, executors and administrators, against all loss, cost and expenses reasonably incurred in connection with any action, suit or proceeding to which such Villas Director or Villas Officer may be made a party by reason of being or having been a Villas Director or Villas Officer of the Villas Association, including reasonable counsel fees and paraprofessional fees at all levels of proceeding. This indemnification shall not apply to matters wherein the Villas Director or Villas Officer shall be finally adjudged in such action, suit or proceeding to be liable for or guilty of gross negligence or willful misconduct. The foregoing rights shall be in addition to, and not exclusive of, all other rights to which such Villas Director or Villas Officer may be entitled.

17. Transactions in Which Villas Directors or Villas Officers are Interested. No contract or transaction between the Villas Association and one (1) or more of its Villas Directors or Villas Officers or Declarant, or between the Villas Association and any other corporation, partnership, association or other organization in which one (1) or more of its Villas Officers or Villas Directors are officers, directors or employees or otherwise interested shall be invalid, void or voidable solely for this reason, or solely because the Villas Officer or Villas Director is present at, or participates in, a meeting of the Villas Board of Directors thereof which authorized the contract or transaction, or solely because said Villas Officers' or Villas Directors' votes are counted for such purpose. No Villas Director or Villas Officer of the Villas Association shall incur liability by reason of the fact

that such Villas Director or Villas Officer may be interested in any such contract or transaction. Interested Villas Directors shall disclose the general nature of their interest and may be counted in determining the presence of a quorum at a meeting of the Villas Board of Directors which authorized the contract or transaction.

18. Severability. Invalidation of any of the provisions of these Villas Articles by judgment or court order shall in no way effect any other provision, and the remainder of these Villas Articles shall remain in full force and effect.
19. Conflicts. In the case of any conflict between the Villas Bylaws and these Villas Articles, these Villas Articles shall control; in the case of any conflict between the Declaration and these Villas Articles, the Declaration shall control.

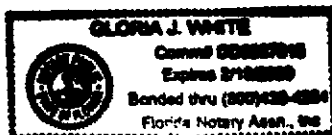
IN WITNESS WHEREOF, I, the undersigned subscribing incorporator, have hereunto set my hand and seal this 7th day of June, 2006, for the purpose of forming this corporation not for profit under the laws of the State of Florida.

  
\_\_\_\_\_  
Lawrence T. Maxwell, its Incorporator

Address: 500 South Florida Avenue, Suite 700  
Lakeland, Florida 33801

STATE OF FLORIDA  
COUNTY OF POLK

The foregoing Articles of Incorporation were acknowledged before me this 7th day of JUNE, 2006, by Lawrence T. Maxwell, as incorporator of THE VILLAS AT VIENNA SQUARE HOMEOWNERS' ASSOCIATION, INC., a Florida not for profit corporation who is personally known to me.



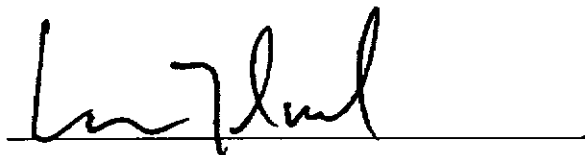
  
\_\_\_\_\_  
Notary Public, State of Florida at Large

(SEAL)

**CERTIFICATE DESIGNATING PLACE OF BUSINESS OR DOMICILE FOR THE  
SERVICE OF PROCESS WITHIN THIS STATE, NAMING AGENT UPON WHOM  
PROCESS MAY BE SERVED**

Pursuant to Florida Statutes, Chapter 48.091 and Chapter 617.0501, the following is submitted:

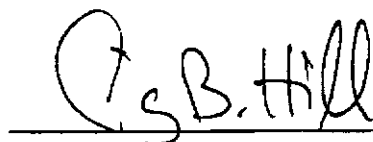
That THE VILLAS AT VIENNA SQUARE HOMEOWNERS' ASSOCIATION, INC., desiring to organize under the laws of the State of Florida with its principal office as indicated in the Articles of Incorporation, at 500 South Florida Avenue, Suite 700, Lakeland, Florida 33801, has named Craig B. Hill, 500 South Florida Avenue, Suite 800, Lakeland, Florida 33801, as its agent to accept service of process within this state.



Lawrence T. Maxwell, Its Incorporator

**ACKNOWLEDGMENT:**

Having been named to accept service of process for the above-stated corporation, at the place designated in this certificate, I am familiar with and hereby accept the appointment as registered agent and agree to act in this capacity.



Craig B. Hill, Registered Agent

FILED  
06 JUN -8 PM 12:01  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

**EXHIBIT "E"**

**BYLAWS OF VIENNA SQUARE HOMEOWNERS' ASSOCIATION, INC.**

**[ATTACHED HERETO]**

## EXHIBIT "E"

### BYLAWS OF VIENNA SQUARE HOMEOWNERS' ASSOCIATION, INC., A FLORIDA NOT FOR PROFIT CORPORATION

#### ARTICLE I. NAME AND LOCATION

The name of the corporation is VIENNA SQUARE HOMEOWNERS' ASSOCIATION, INC. The initial principal office of the corporation shall be located at 500 South Florida Avenue, Suite 700, Lakeland, Florida 33801, but meetings of Members and the Board of Directors may be held at such places within or outside the State of Florida as may be designated by the Board of Directors. The address of the principal office may be changed from time to time by the Board of Directors.

#### ARTICLE II. DEFINITIONS

A declaration entitled Master Declaration of Covenants, Conditions and Restrictions for Vienna Square has been or will be recorded in the Public Records of Polk County, Florida, as it may be amended from time to time (the "Declaration"), and shall govern all of the operations of a community to be known as Vienna Square ("Community"). All initially capitalized terms not defined herein shall have the meanings ascribed thereto in the Declaration, unless otherwise defined herein.

#### ARTICLE III. MEMBERS

3.1. Membership in the Association. Every Owner shall be a Member and membership shall be established as set forth in the Declaration.

3.2. Voting Rights. Voting rights shall be as set forth in the Declaration. When more than one (1) person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as the Owners of each Lot shall determine, but in no event shall more than one (1) vote be cast with respect to any Lot. Any Member who is delinquent in the payment of any charges or Assessments duly levied by the Association or by MX against the Lot shall not be entitled to vote until all such charges or Assessments together with any penalties as the Board of Directors may impose have been paid.

3.3. Termination of Membership. Membership terminates when such Member ceases to be an Owner of a Lot.

3.4. Transfer of Membership. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to Assessment.

3.5. Membership Records. The Secretary of the Association shall make and currently maintain a complete list of Members and the number of votes each said Member has at all

Association meetings. The Secretary of the Association shall maintain to the best of his knowledge, information and belief, current mailing addresses for all Members.

#### ARTICLE IV. MEETINGS OF MEMBERS

4.1. Annual Meetings. The first annual meeting of the Members for the election of the Board of Directors and the transaction of other business shall be held within one (1) year from the date of incorporation of the Association, which date shall be established by appropriate resolution of the Board of Directors. Notwithstanding the foregoing or anything to the contrary contained herein, Declarant shall have the right to appoint all or some of the Board of Directors until such time as set forth in and pursuant to the Declaration. Members shall meet at least once each calendar year, and the meeting shall be the annual meeting. At the first annual meeting of Members, the month for all subsequent annual meetings shall be established and all subsequent annual meetings shall be held on the date and at the time and place the Board of Directors determines. If the date for any annual meeting of Members is a legal holiday, the meeting will be held at the same hour on the next following day which is not a legal holiday.

4.2. Special Meetings. Special meetings of Members may be called at any time by the President of the Association or the Board of Directors, or upon written request by a majority of the total number of Members. A special meeting requested by Members shall be called for a date not less than ten (10) nor more than sixty (60) days after the request is made, unless the Members requesting the meeting designate a later date. The Secretary of the Association shall issue the call for the meeting, unless the President of the Association, the Board of Directors, or the Members requesting the meeting designate another person to do so.

4.3. Place of Meetings. Meetings of Members may be held either within or outside the State of Florida.

4.4. Notice of Meetings. Written notice of each meeting of the Members shall be given by, or at the direction of, the President of the Association, the Secretary of the Association, or any one of the officers or other persons calling the meeting by mailing a copy of such notice, postage prepaid, or electronically delivered at least fourteen (14) 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 in writing by such Member to the Association for the purpose of receiving notice. In addition, written notice may be given by posting in a conspicuous place in the Common Areas of a notice of the meeting at least fourteen (14) days prior to the meeting. Such notice shall specify the day, hour and place of the meeting, and in the case of a special meeting, the purpose of the meeting. Business conducted at a special meeting shall be limited to the purposes described in the notice of the meeting.

4.5. Waiver of Notice. A written Waiver of Notice signed by a Member, whether before or after the meeting, shall be equivalent to the giving of such notice. Neither the affairs transacted nor the purpose of the meeting need be specified in the Waiver of Notice. Any certificate to be filed

as a result of the Members' action under this Section shall state that written consent was given in accordance with the applicable provisions of Chapter 617 of the Florida Statutes. The attendance of a Member at a meeting, either in person or by proxy, shall constitute a waiver of notice of such meeting and a waiver of any and all objections to the place of such meeting, the time of the meeting or the manner in which it has been called or convened, unless the Member states at the beginning of the meeting any objection to the transaction of business because the meeting is not lawfully called or convened.

4.6. Quorum. The presence at a meeting in person or by proxy of Members to cast ten percent (10%) of the votes of the membership shall constitute a quorum for authorization of any action, except as may otherwise be provided in the Declaration, the Articles of Incorporation, these Bylaws or by law. After a quorum has been established at a Member's meeting, the subsequent withdrawal of Members so as to reduce the number of Members entitled to vote at the meeting below the number required for a quorum, shall not affect the validity of any action taken at the meeting or any adjournment thereof. If a quorum is not present 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 of the new time, date and place, until a quorum as aforesaid shall be present or be represented. Any business that might have been transacted on the original date of the meeting may be transacted at the adjourned meeting.

4.7. Proxies. At all meetings of Members, each Member may vote in person or by proxy in the manner provided by law. To be valid, a proxy must be dated, must state the date, time and place of the meeting for which it was given, and must be signed by the authorized person who executed the proxy. All proxies shall be in writing and filed with the Secretary of the Association, or other individual designated by the Board of Directors, prior to the start of the meeting. Proxies shall be effective only for the specific meeting for which originally given, and proxies shall automatically expire ninety (90) days after the date of the meeting for which originally given. Proxies shall be revocable at any time at the pleasure of the Member who executes it, and the proxy of any Owner shall automatically terminate on conveyance by the Owner of his or her Lot.

4.8. Action Without Meeting. Any action of the Members may be taken without a meeting, without prior notice and without vote, if a written consent setting forth the action so taken is signed by a majority of the Members. Within ten (10) days after obtaining such authorization by written consent, notice shall be given to those Members who have not consented in writing. The notice shall fairly summarize the material features of the authorized action.

4.9. Voting Record. If the Association has six (6) or more Members of record, the officers who have the membership records of the Association shall make, at least ten (10) days before each meeting of Members, a complete list of the Members entitled to vote at such meeting or any adjournment thereof. The list shall be kept on file at the registered office of the Association or at the principal place of business of the Association, and any Member shall be entitled to inspect the list at any time during normal business hours. The list shall also be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any Member at any reasonable time during the meeting.

4.10. Absentee Ballots. Absentee ballots shall be permitted in connection with votes on such matters as the Board of Directors shall permit from time to time, including, annual meetings of the Members. In the event absentee ballots are permitted, they shall only be available to those Members who are physically absent from the Community at the time the meeting is to be held or they have a physical disability or limitation which makes it impossible for them to attend the meeting. If an absentee ballot is permitted, the Board of Directors or the Secretary of the Association shall mail the ballot to the Member who shall return the ballot to the Board of Directors or the Secretary of the Association no later than three (3) days prior to the meeting. Any absentee ballot may be revoked at the meeting in the event that the Member voting by absentee ballot is present at the meeting. Absentee ballots may be considered for purposes of establishing a quorum only on those matters voted on in the absentee ballot.

4.11. Order of Business. The order of business at the annual meeting of the Members and as far as is practicable and applicable at other meetings, shall be:

- (a) call of the roll,
- (b) proof of notice of meeting,
- (c) reading and disposition of any unapproved minutes,
- (d) report of officers,
- (e) report of committees,
- (f) appointment of inspectors of election,
- (g) election of directors,
- (h) unfinished business,
- (i) new business,
- (j) adjournment.

4.12. Right to Speak. Each Member shall have the right to attend all membership meetings and to speak at any meeting with reference to all items opened for discussion or included on the agenda. Notwithstanding any provision to the contrary in the Articles of Incorporation, the Declaration or these Bylaws, or any rules adopted by the Board of Directors or by the membership, a Member shall have the right to speak for at least three (3) minutes on any item, provided that the Member submits a written request to speak prior to the meeting. The Association may adopt written reasonable rules governing the frequency, duration, and other manner of Member statements, which rules shall be consistent with this subsection.

## ARTICLE V. BOARD OF DIRECTORS

5.1 Function. All corporate power shall be exercised by or under the authority of, and the business and affairs of the corporation shall be managed under the direction of, the Board of Directors. Each member of the Board of Directors has a fiduciary relationship to the Members.

5.2. Number. The affairs of the Association shall be managed by a Board of Directors of odd number with not less than three (3) nor more than five (5) members. The initial number of members of the Board of Directors shall be three (3).

5.3 Qualifications. Members of the Board of Directors shall be natural persons who are 18 years of age or older but need not be residents of the State of Florida and need not be Members.

5.4. Term of Office. The present members of the Board of Directors or successors of the present members of the Board of Directors as appointed by them in the event of the removal or disability of one or all of said members of the Board of Directors, shall hold office until the next annual meeting of the Members, at which time the successors shall be elected. Each member of the Board of Directors thereafter shall hold office until the next annual meeting of the Members and until his or her successor shall have been elected and qualified, or until removed by a majority vote of the Members for misfeasance or malfeasance, at a special meeting of the Members called for that purpose.

5.5. Compensation. No member of the Board of Directors or officer shall receive compensation for any service he or she may render to the Association. However, any member of the Board of Directors or officer may be reimbursed for his or her actual expenses incurred in the performance of his or her duties.

5.6. Election of the Board of Directors. At such time as the Members have the right to elect all or a portion of the members of the Board of Directors, the election of the members of the Board of Directors elected by the Members shall be in the following manner:

(a) No later than two (2) months prior to the annual meeting of the Members, the President of the Association shall appoint a nominating committee consisting of a chairperson and four (4) other persons who shall be Members in good standing. The nominating committee shall compile a list of qualified nominees and present a report to the Board of Directors at least twenty-one (21) days before the annual meeting of the Members.

(b) At the annual meeting of the Members, the nominating committee shall present their list of qualified nominees to the membership. To qualify to serve as a member of the Board of Directors, the person nominated must be eighteen (18) years of age or older, except those designated by Developer. Any number of persons may be presented as nominees and nominations may be made from the floor if properly qualified.

(c) Each nominee shall either accept or decline the nomination. If unable to be present at the meeting, a letter from the nominee accepting the nomination shall be submitted to the Secretary of the Association before the meeting. At the annual meeting, the President of the Association shall appoint one (1) of the members to be a chairperson for the election committee who shall select other Members to assist with the election process and the counting of ballots.

(d) The election shall be by a majority vote and shall be by secret ballot. Election will be by a plurality of votes cast, each person voting being entitled to cast his or her vote for as many nominees as there are vacancies to be filled. There shall be no cumulative voting.

(e) Notwithstanding anything to the contrary contained herein, Declarant shall not be required to or be responsible for organizing, conducting or noticing a meeting for the election of members of the Board of Directors by the Members upon or subsequent to the Turnover Date unless Declarant elects to do so in its sole and absolute discretion.

5.7. Annual Meetings. The Board of Directors shall hold its annual meeting at the same place as and immediately following each annual meeting of Members for the purpose of the election of officers and the transaction of such other business as may come before the meeting. If a majority of the Board of Directors are present at the annual meeting of Members, no prior notice of the annual meeting of the Board of Directors shall be required. However, another place and time for such meeting may be fixed by written consent of all of the members of the Board of Directors.

5.8. Regular Meetings. Regular meetings of the Board of Directors may be held without notice except for posting of notices as specified in Paragraph 5.12 at such time and at such place as shall be determined from time to time by the Board of Directors.

5.9. Special Meetings. Special meetings of the Board of Directors may be called by the Chairman of the Board of Directors (if there is one), the President of the Association or any member of the Board of Directors. The person or persons authorized to call special meetings of the Board of Directors may fix a reasonable time and place for holding such special meetings.

5.10. Telephone Meetings. Members of the Board of Directors may participate in meetings of the Board of Directors by means of a telephone conference or similar communications equipment by which all persons participating can hear each other at the same time, and participation by such means shall constitute presence in person at such a meeting.

5.11. Action Without Meeting. Any action of the Board of Directors may be taken without a meeting if a consent in writing setting forth the action so taken signed by all of the members of the

Board of Directors is filed in the minutes of the Association or the Board of Directors, as applicable. Such consent shall have the same effect as a unanimous vote.

5.12. Notice and Waiver. All meetings of the Board of Directors must be open to all Members except for meetings between the Board of Directors and its attorney with respect to proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney-client privilege. Notice of any special meeting shall be given at least three (3) days prior thereto by written notice delivered personally, by mail or by facsimile to each member of the Board of Directors at his or her address or facsimile number. If mailed, such notice shall be deemed to be delivered three (3) days after being deposited in the United States Mail with postage prepaid. If notice is given by facsimile transmission, such notice shall be deemed to be delivered when the facsimile transmission is delivered as reflected on a facsimile confirmation sheet. Any member of the Board of Directors may waive notice of any meeting, whether before, at, or after such meeting by executing a waiver of notice. The attendance of a member of the Board of Directors at a meeting shall constitute a waiver of notice of such meeting and a waiver of any and all objections to the place of such meeting or the manner in which it has been called or convened except when a member of the Board of Directors states at the beginning of the meeting any objection to the transaction of business because the meeting is not lawfully called or convened. Notices of all Board of Directors meetings shall be posted in a conspicuous place within the Common Areas at least forty-eight (48) hours in advance of each Board of Directors meeting, except in an emergency. An Assessment may not be levied at a Board of Directors meeting unless the notice of the meeting includes a statement that the Assessments will be considered and the nature of the Assessments.

5.13. Quorum and Voting. A majority of the Board of Directors in office shall constitute a quorum for the transaction of business. The vote of a majority of the members of the Board of Directors present at a meeting at which a quorum is present shall constitute the action of the Board of Directors. If less than a quorum is present, then a majority of those members of the Board of Directors present may adjourn the meeting from time to time without notice until a quorum is present. Members of the Board of Directors may not vote by proxy or by secret ballot at Board of Directors' meetings, except that secret ballots may be used in the election of officers.

5.14. Vacancies. Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of a majority of the remaining members of the Board of Directors even though it is less than a quorum of the Board of Directors, unless otherwise provided by law or the Articles of Incorporation. However, if applicable, any member of the Board of Directors which Developer selected shall be replaced by a person designated by Developer. A member of the Board of Directors elected to fill a vacancy shall hold office only until the next election of the members of the Board of Directors by the Members.

5.15. Removal. At any meeting of Members called expressly for that purpose, any member or members of the Board of Directors may be removed from office, with or without cause, by vote

of a majority of the Members then entitled to vote at an election of the Board of Directors. New members of the Board of Directors may be elected by the Members for the unexpired terms of members of the Board of Directors removed from office at the same meetings at which such removals are voted upon. If the Members fail to elect persons to fill the unexpired terms of the removed members of the Board of Directors, and if the Members did not intend to decrease the number of members of the Board of Directors to serve on the Board of Directors, then the vacancies unfilled shall be filled in accordance with provisions in these Bylaws for vacancies.

5.16. Resignations. Any member of the Board of Directors may resign at any time by submitting a written resignation which shall take effect at the time and as specified in the notice of resignation or if no time is specified, at the time of receipt by the President of the Association. The acceptance of a resignation shall not be necessary to make it effective.

5.17. Presumption of Assent. A member of the Board of Directors who is present at a meeting of the Board of Directors at which action on any Association matter is taken shall be presumed to have assented to the action taken unless he or she votes against such action or abstains from voting because of an asserted conflict of interest.

5.18. Increase of Number of Members of the Board of Directors. The number of members of the Board of Directors may be increased by amendment to these Bylaws by the affirmative vote of a majority of the Members at the annual meeting or at a special meeting called for that purpose. The additional members of the Board of Directors may be chosen at such annual meeting by a majority vote of the Members. Such new members of the Board of Directors shall hold office until the next annual meeting and until the election, qualification and taking office of their successors.

5.19. Powers. All corporate powers shall be vested in and exercised under the authority of the Board of Directors and the management and affairs of the Association shall be controlled by the Board of Directors. The Board of Directors shall have all powers given to the Board of Directors by the Articles of Incorporation, these Bylaws, the Declaration and Florida law (as such law may be amended from time to time) and in addition shall have powers to:

(a) Suspend the voting rights of a Member during any period in which such Member shall be delinquent in the payment of any charges duly levied by the Association;

(b) Exercise on behalf of the Association all powers, duties and authority vested in or delegated to the Association and not specifically reserved to the membership by the Declaration, Articles of Incorporation or by other provisions of these Bylaws;

(c) Declare the office of a member of the Board of Directors to be vacant in the event that such member is absent from three (3) consecutive regular meetings of the Board of Directors or six (6) regular meetings during any calendar year; and

(d) Employ a manager, independent contractors, and such other employees as they may deem necessary, and to prescribe their duties.

5.20. Duties. It shall be the duty of the Board of Directors to:

(a) Supervise all officers, agents, and employees of the Association and see to it that their duties are properly performed;

(b) Fix the amount of the annual Assessment against each Lot in advance of each annual Assessment period, in accordance with the Assessment provisions set forth in the Declaration;

(c) Send written notice of each Assessment (annual Assessment or otherwise as set forth in the Declaration) to every Owner subject thereto in advance of each Assessment period;

(d) Foreclose the lien against any Lot for which Assessments are not paid within thirty (30) days after the due date, or to bring an action at law against the Owner personally obligated to pay the same;

(e) Issue, or cause an appropriate officer to issue, on demand by any person, a certificate setting forth whether or not any Assessment has been paid. A statement in a certificate to the effect that an Assessment has been paid shall constitute conclusive evidence of such payment. The Board of Directors may impose a reasonable charge for the issuance of these certificates;

(f) Procure and maintain adequate liability and hazard insurance on all property owned by the Association;

(g) Cause all officers or employees of the Association having fiscal responsibilities to be bonded, as it may deem appropriate; and

(h) Perform the maintenance, repair or replacement required to be performed by the Association as provided in the Declaration.

5.21. Petition by Members. If twenty percent (20%) of the total voting interests petition the Board of Directors to address an item of business, the Board of Directors shall at its next regular meeting or at a special meeting of the Board of Directors, but not later than sixty (60) days after the receipt of the petition, take the petitioned item up on an agenda. Notice of the meeting at which the petitioned item shall be addressed shall be provided to the Members by mail, hand delivery or electronic transmission and posted in a conspicuous place within the Common Areas not less than fourteen (14) days before the meeting at which said petition shall be heard. Each Member shall have the right to speak for at least three (3) minutes on each matter placed on the agenda by petition, provided that the Member signs the sign-up sheet, if one is provided, or submits a written request to speak prior to the meeting. The Association may adopt written reasonable rules expanding the right of Members to speak and governing the frequency, duration, and other manner of Member statements, which rules must be consistent with this paragraph and may include a sign-up sheet for Members wishing to speak. Other than addressing the petitioned item at the meeting, the Board of Directors is not obligated to take any other action requested by the petition.

## ARTICLE VI. OFFICERS AND THEIR DUTIES

6.1. Officers. The officers of this Association shall be a President, Secretary and Treasurer, and as many Vice Presidents, Assistant Secretaries and Assistant Treasurers as the Board of Directors shall from time to time determine, each of whom shall be elected by the Board of Directors. A Chairman of the Board of Directors, and such other officers and assistant officers as may be deemed appropriate may be elected by the Board of Directors from time to time. Any two (2) or more offices may be held by the same person. Officers need not be residents of the State of Florida and need not be Members. A failure to elect a President, Secretary or Treasurer of the Association shall not affect the existence of the Association.

6.2. Election and Term of Office. The officers shall be elected annually by the Board of Directors at its meeting after each annual meeting of Members. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Each officer shall hold office until his or her successor shall have been duly elected and shall have qualified, or until his or her death, or until he or she shall resign or shall have been removed in the manner hereinafter provided.

6.3. Removal. Any officer may be removed from office at any time, with or without cause, on the affirmative vote of a majority of the Board of Directors whenever, in its judgment, the best interests of the Association will be served thereby. Removal shall be without prejudice to any contract rights of the person so removed, but election of an officer shall not of itself create contract rights.

6.4. Vacancies. Vacancies in offices, however occasioned, may be filled at any time by election by the Board of Directors for the unexpired terms of such offices.

6.5. Duties. The Chairman of the Board of Directors, or the President of the Association if there is no Chairman of the Board of Directors, shall preside at all meetings of the Board of Directors and of the Members. The President of the Association shall be the chief executive officer of the Association and shall, in general, control all of the business and affairs of the Association. The Vice President of the Association shall, in the case of the absence or disability of the President of the Association, perform all of the duties of the President of the Association. The Vice President of the Association shall perform such other duties as may be assigned by the Board of Directors or the President of the Association. The Secretary of the Association shall keep a record of the proceedings of the meetings of the Board of Directors and the meetings of the Members. The Secretary of the Association shall also keep an accurate record of the attendance at meetings and shall have charge of the corporate seal and shall affix the corporate seal to such instruments as are authorized by the Board of Directors. The Treasurer of the Association shall have charge of the funds of the Association and shall keep a correct account of all monies received and disbursed by the Association. The Treasurer of the Association shall present a financial report to the Board of Directors at each regular Board of Directors meeting for the period since the date of the last Board of Directors meeting. The Treasurer of the Association shall also present a report of the receipts and disbursements for the previous year and a budget for the upcoming year at each annual meeting of the Association. Subject to the foregoing, the officers shall have such powers and duties as usually pertain to their respective offices and such additional powers and duties specifically conferred by law, by the Articles of Incorporation, by the Declaration, by these Bylaws, or as may be assigned to them from time to time by the Board of Directors.

6.6. Delegation of Duties. In the absence or disability of any officer or for any other reason deemed sufficient by the Board of Directors, any member of the Board of Directors may delegate his or her powers or duties to any other officer, to any other member of the Board of Directors, or to any other individual.

6.7. Compensation. Officers shall not receive any compensation for acting as such.

## ARTICLE VII. COMMITTEES

7.1. Creation of Committees. The Board of Directors may, by resolution passed by a majority of the entire Board of Directors, designate an Executive Committee and one (1) or more other committees.

7.2. Executive Committee. The Executive Committee (if there is one) shall consult with and advise the officers in the management of its affairs and shall have and may exercise, to the extent provided in the resolution of the Board of Directors creating such Executive Committee, such powers of the Board of Directors as can be lawfully delegated by the Board of Directors.

7.3. Other Committees. Such other committees shall have such functions and may exercise such power of the Board of Directors as can be lawfully delegated and to the extent provided in the resolution or resolutions creating such committee or Committees.

7.4. Meetings. Regular meetings of the Executive Committee (if there is one) and other committees may be held without notice at such time and at such place as shall from time to time be determined by the Executive Committee (if there is one) or such other committees, and special meetings of the Executive Committee (if there is one) or other committees may be called by any member thereof upon two (2) days notice to the other members of such committee, or on such shorter notice as may be agreed to in writing by each of the other members of such committee, given either personally or in the manner provided in these Bylaws pertaining to notice of Board of Directors' meetings. Notwithstanding the foregoing, meetings of any committee or other similar body, when a final decision will be made regarding the expenditure of Association funds, shall be preceded by the posting of notice in a conspicuous place in the Common Areas at least forty-eight (48) hours in advance of a meeting, except in an emergency.

7.5. Vacancies. Vacancies on the Executive Committee (if there is one) or on other committees shall be filled by the Board of Directors then in office at any regular or special meeting of the Board of Directors.

7.6. Quorum. At all meetings of the Executive Committee (if there is one) or other committees, a majority of the committee's members then in office shall constitute a quorum for the transaction of business.

7.7. Manner of Acting. The acts of a majority of the members of the Executive Committee (if there is one) or other committees present at any meeting at which there is a quorum shall be the act of such committee.

7.8. Minutes. The Executive Committee (if there is one) and the other committees shall keep regular minutes of their proceedings and report the same to the Board of Directors when required.

## ARTICLE VIII. ASSESSMENTS

The Assessments shall be used to implement and promote the security, recreation, health, safety and welfare of the Members and for the improvement, maintenance and operation of the Community, including without limitation the streets therein. Assessments shall be, including without limitation, computed, levied, collected and enforced as set forth in the Declaration.

## ARTICLE IX. MINUTES, BOOKS, RECORDS AND REPORTS

9.1. Minutes. Minutes of all meetings of the Members and of the Board of Directors shall be maintained in written form or in another form that can be converted into written form within a reasonable time. A vote or abstention from voting on each matter voted upon for each member of the Board of Directors present at a Board of Directors meeting must be recorded in the minutes.

9.2. Report to Members. In accordance with Florida law, not later than sixty (60) days after the close of each fiscal year, the Association shall provide each Member with either: (i) a copy of the annual financial report of the Association; or (ii) a written notice stating that a copy of the financial report of the Association is available upon request at no charge to the Member. Such financial report shall include a balance sheet as of the close of the fiscal year of the Association and a revenue and disbursement statement for the year ending on such closing date. Such financial statements shall be prepared from and in accordance with the books of the Association, in conformity with generally accepted accounting principles applied on a consistent basis. Such financial report or such notice, as applicable, shall be made public by mailing it to each Member addressed to the Member's address last appearing on the books of the Association or supplied in writing by such Member to the Association for the purpose of receiving notice, by posting in a conspicuous place in the Common Areas or publishing it in a publication regularly distributed in the Community.

9.3. Inspection of Corporate Records. The official records of the Association shall be maintained within the State of Florida and in accordance with the law in effect at the time this Declaration is recorded, as such law may be amended from time to time. The requirement for maintenance and inspection of the official records of the Association may be complied with by having a copy of the official records available for inspection or copying within the Community. The Association may adopt reasonable written rules governing the frequency, time, location, notice and manner of inspection, and may impose fees to cover the costs of providing copies of the official records, including without limitation, the costs of copying. The Association shall maintain an adequate number of copies of the recorded Governing Documents, to ensure their availability to Members and prospective members, and may charge its actual costs for reproducing and furnishing same.

## ARTICLE X. CORPORATE SEAL

The Association shall have a corporate seal and shall have the name of the corporation and the word "seal" inscribed on it, and it may be an engraved, printed or impression seal.

## ARTICLE XI. FISCAL YEAR

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

## ARTICLE XII. AMENDMENTS

These Bylaws may be repealed or amended, and additional Bylaws may be adopted, if approved at an annual or special meeting called for that purpose by either a vote of a majority of the Board of Directors or by a majority vote of the total number of Members, but the Board of Directors may not amend or repeal any Bylaw adopted by Members if the Members specifically provide that the Bylaw is not subject to amendment or repeal by the Board of Directors. Notwithstanding any other provision herein to the contrary, no amendment to these Bylaws shall affect the rights of Declarant unless such amendment receives the prior written consent of Declarant, which consent may be withheld for any reason whatsoever.

## ARTICLE XIII. CONFLICTS

In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles of Incorporation shall control; in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

**EXHIBIT "F"**

**BYLAWS OF THE VILLAS AT VIENNA SQUARE HOMEOWNERS'  
ASSOCIATION, INC.**

**[ATTACHED HERETO]**

**EXHIBIT "F"**

**BYLAWS OF  
THE VILLAS AT VIENNA SQUARE HOMEOWNERS' ASSOCIATION, INC.,  
A FLORIDA NOT FOR PROFIT CORPORATION**

**ARTICLE I. NAME AND LOCATION**

The name of the corporation is THE VILLAS AT VIENNA SQUARE HOMEOWNERS' ASSOCIATION, INC. The initial principal office of the corporation shall be located at 500 South Florida Avenue, Suite 700, Lakeland, Florida 33801, but meetings of Villas Members and the Villas Board of Directors may be held at such places within or outside the State of Florida as may be designated by the Villas Board of Directors. The address of the principal office may be changed from time to time by the Villas Board of Directors.

**ARTICLE II. DEFINITIONS**

A declaration entitled Master Declaration of Covenants, Conditions and Restrictions for Vienna Square has been or will be recorded in the Public Records of Polk County, Florida (the "Declaration"), and shall govern all of the operations of a community to be known as The Villas at Vienna Square ("Villas"). All initially capitalized terms not defined herein shall have the meanings ascribed thereto in the Declaration.

**ARTICLE III. VILLAS MEMBERS**

3.1. Membership in the Villas Association. Every Villas Owner shall be a Villas Member and membership shall be established as set forth in the Governing Documents.

3.2. Voting Rights. Voting rights shall be as set forth in the Governing Documents. When more than one (1) person holds an interest in any Lot in the Villas, all such persons shall be Villas Members. The vote for such Lot shall be exercised as the Villas Owners of each Lot shall determine, but in no event shall more than one (1) vote be cast with respect to any Lot in the Villas. Any Villas Member who is delinquent in the payment of any charges duly levied by the Association, by the Villas Association or by MX against his or her Lot shall not be entitled to vote until all such charges together with any penalties as the Villas Board of Directors may impose have been paid.

3.3. Termination of Villas Membership. Membership in the Villas Association terminates when such Villas Member ceases to be a Villas Owner.

3.4. Transfer of Villas Membership. Membership shall be appurtenant to and may not be separated from ownership of any Lot in the Villas which is subject to Villas Assessment.

3.5. Villas Membership Records. The Secretary of the Villas Association shall make and currently maintain a complete list of Villas Members and the number of votes each said Villas Member has at all Villas Association meetings. The Secretary of the Villas Association shall

maintain to the best of his knowledge, information and belief, current mailing addresses for all Villas Members.

#### ARTICLE IV. MEETINGS OF VILLAS MEMBERS

4.1. Annual Meetings. The first annual meeting of the Villas Members for the election of the Villas Board of Directors and the transaction of other business shall be held within one (1) year from the date of incorporation of the Villas Association, which date shall be established by appropriate resolution of the Villas Board of Directors. Notwithstanding the foregoing or anything to the contrary contained herein, Declarant shall have the right to appoint the Villas Board of Directors until such time as set forth in and pursuant to the Declaration. Villas Members shall meet at least once each calendar year, and the meeting shall be the annual meeting. At the first annual meeting of Villas Members, the month for all subsequent annual meetings shall be established and all subsequent annual meetings shall be held on the date and at the time and place the Villas Board of Directors determines. If the date for any annual meeting of Villas Members is a legal holiday, the meeting will be held at the same hour on the next following day which is not a legal holiday.

4.2. Special Meetings. Special meetings of Villas Members may be called at any time by the President of the Villas Association or the Villas Board of Directors, or upon written request by a majority of the total number of Villas Members. A special meeting requested by Villas Members shall be called for a date not less than ten (10) nor more than sixty (60) days after the request is made, unless the Villas Members requesting the meeting designate a later date. The Secretary of the Villas Association shall issue the call for the meeting, unless the President of the Villas Association, the Villas Board of Directors or the Villas Members requesting the meeting designate another person to do so.

4.3. Place of Meetings. Meetings of Villas Members may be held either within or outside the State of Florida.

4.4. Notice of Meetings. Written notice of each meeting of the Villas Members shall be given by, or at the direction of, the President of the Villas Association, the Secretary of the Villas Association, or any one of the officers or other persons calling the meeting by mailing a copy of such notice, postage prepaid, or electronically delivered at least fourteen (14) days before such meeting to each Villas Member entitled to vote thereat, addressed to the Villas Member's address last appearing on the books of the Villas Association or supplied in writing by such Villas Member to the Villas Association for the purpose of receiving notice. In addition, written notice may be given by posting in a conspicuous place on the Common Areas of a notice of the meeting at least fourteen (14) days prior to the meeting. Such notice shall specify the day, hour and place of the meeting, and in the case of a special meeting, the purpose of the meeting. Business conducted at a special meeting shall be limited to the purposes described in the notice of the meeting.

4.5. Waiver of Notice. A written Waiver of Notice signed by a Villas Member, whether before or after the meeting, shall be equivalent to the giving of such notice. Neither the affairs

transacted nor the purpose of the meeting need be specified in the Waiver of Notice. Any certificate to be filed as a result of the members action under this Section shall state that written consent was given in accordance with the applicable provisions of Chapter 617 of the Florida Statutes. The attendance of a Villas Member at a meeting, either in person or by proxy, shall constitute a waiver of notice of such meeting and a waiver of any and all objections to the place of such meeting, the time of the meeting or the manner in which it has been called or convened, unless the Villas Member states at the beginning of the meeting any objection to the transaction of business because the meeting is not lawfully called or convened.

4.6. Quorum. The presence at a meeting in person or by proxy of Villas Members to cast ten percent (10%) of the votes of the membership shall constitute a quorum for authorization of any action, except as may otherwise be provided in the Governing Documents, the Villas Articles of Incorporation, these Villas Bylaws or by law. After a quorum has been established at a Villas Member's meeting, the subsequent withdrawal of Villas Members so as to reduce the number of Villas Members entitled to vote at the meeting below the number required for a quorum, shall not affect the validity of any action taken at the meeting or any adjournment thereof. If a quorum is not present at any meeting, the Villas Members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting of the new time, date and place, until a quorum as aforesaid shall be present or be represented. Any business that might have been transacted on the original date of the meeting may be transacted at the adjourned meeting.

4.7. Proxies. At all meetings of Villas Members, each Villas Member may vote in person or by proxy in the manner provided by law. To be valid, a proxy must be dated, must state the date, time and place of the meeting for which it was given, and must be signed by the authorized person who executed the proxy. All proxies shall be in writing and filed with the Secretary of the Villas Association, or other individual designated by the Villas Board of Directors, prior to the start of the meeting. Proxies shall be effective only for the specific meeting for which originally given, and proxies shall automatically expire ninety (90) days after the date of the meeting for which originally given. Proxies shall be revocable at any time at the pleasure of the Villas Member who executes it, and the proxy of any Villas Owner shall automatically terminate on conveyance by the Villas Owner of his or her Lot.

4.8. Action Without Meeting. Any action of the Villas Members may be taken without a meeting, without prior notice and without vote, if a written consent setting forth the action so taken is signed by a majority of the Villas Members. Within ten (10) days after obtaining such authorization by written consent, notice shall be given to those Villas Members who have not consented in writing. The notice shall fairly summarize the material features of the authorized action.

4.9. Voting Record. If the Villas Association has six (6) or more Villas Members of record, the officers who have the membership records of the Villas Association shall make, at least ten (10) days before each meeting of Villas Members, a complete list of the Villas Members entitled to vote at such meeting or any adjournment thereof. The list shall be kept on file at the registered

office of the Villas Association or at the principal place of business of the Villas Association, and any Villas Member shall be entitled to inspect the list at any time during normal business hours. The list shall also be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any Villas Member at any reasonable time during the meeting.

4.10. Absentee Ballots. Absentee ballots shall be permitted in connection with votes on such matters as the Villas Board of Directors shall permit from time to time, including annual meetings of the Villas Members. In the event absentee ballots are permitted, they shall only be available to those Villas Members who are physically absent from the Villas at the time the meeting is to be held or they have a physical disability or limitation which makes it impossible for them to attend the meeting. If an absentee ballot is permitted, the Villas Board of Directors or the Secretary of the Villas Association shall mail the ballot to the Villas Member who shall return the ballot to the Villas Board of Directors or the Secretary of the Villas Association no later than three (3) days prior to the meeting. Any absentee ballot may be revoked at the meeting in the event that the Villas Member voting by absentee ballot is present at the meeting. Absentee ballots may be considered for purposes of establishing a quorum only on those matters voted on in the absentee ballot.

4.11. Order of Business. The order of business at the annual meeting of the Villas Members and as far as is practicable and applicable at other meetings, shall be:

- (a) call of the roll,
- (b) proof of notice of meeting,
- (c) reading and disposition of any unapproved minutes,
- (d) report of officers,
- (e) report of committees,
- (f) appointment of inspectors of election,
- (g) election of directors,
- (h) unfinished business,
- (i) new business,
- (j) adjournment.

4.12. Right to Speak. Each Villas Member shall have the right to attend all membership meetings and to speak at any meeting with reference to all items opened for discussion or included on the agenda. Notwithstanding any provision to the contrary in the Villas Articles of Incorporation, the Governing Documents or these Villas Bylaws, or any rules adopted by the Villas Board of Directors or by the membership, a Villas Member shall have the right to speak for at least three (3) minutes on any item, provided that the Villas Member submits a written request to speak prior to the meeting. The Villas Association may adopt written reasonable rules governing the frequency, duration, and other manner of Villas Member statements, which rules shall be consistent with this subsection.

## ARTICLE V. VILLAS BOARD OF DIRECTORS

5.1 Function. All corporate power shall be exercised by or under the authority of, and the business and affairs of the corporation shall be managed under the direction of, the Villas Board of Directors. Each member of the Villas Board of Directors has a fiduciary relationship to the Villas Members.

5.2. Number. The affairs of the Villas Association shall be managed by a Villas Board of Directors of odd number with not less than three (3) nor more than five (5) members. The initial number of members of the Villas Board of Directors shall be three (3).

5.3 Qualifications. Members of the Villas Board of Directors shall be natural persons who are 18 years of age or older but need not be residents of the State of Florida and need not be Villas Members.

5.4. Term of Office. The present members of the Villas Board of Directors or successors of the present members of the Villas Board of Directors as appointed by them in the event of the removal or disability of one or all of said members of the Villas Board of Directors, shall hold office until the next annual meeting of the Villas Members, at which time the successors shall be elected. Each member of the Villas Board of Directors thereafter shall hold office until the next annual meeting of the Villas Members and until his or her successor shall have been elected and qualified, or until removed by a majority vote of the Villas Members for misfeasance or malfeasance, at a special meeting of the Villas Members called for that purpose.

5.5. Compensation. No member of the Villas Board of Directors or officer shall receive compensation for any service he or she may render to the Villas Association. However, any member of the Villas Board of Directors or officer may be reimbursed for his or her actual expenses incurred in the performance of his or her duties.

5.6. Election of the Villas Board of Directors. At such time as the Villas Members have the right to elect all or a portion of the members of the Villas Board of Directors), the election of the members of the Villas Board of Directors elected by the Villas Members shall be in the following manner:

(a) No later than two (2) months prior to the annual meeting of the Villas Members, the President of the Villas Association shall appoint a nominating committee consisting of a chair person and four (4) other persons who shall be Villas Members in good standing. The

nominating committee shall compile a list of qualified nominees and present a report to the Villas Board of Directors at least twenty-one (21) days before the annual meeting of the Villas Members.

(b) At the annual meeting of the Villas Members, the nominating committee shall present their list of qualified nominees to the membership. To qualify to serve as a member of the Villas Board of Directors, the person nominated must be eighteen (18) years of age or older, except those designated by Developer. Any number of persons may be presented as nominees and nominations may be made from the floor if properly qualified.

(c) Each nominee shall either accept or decline the nomination. If unable to be present at the meeting, a letter from the nominee accepting the nomination shall be submitted to the Secretary of the Villas Association before the meeting. At the annual meeting, the President of the Villas Association shall appoint one (1) of the members to be a chairperson for the election committee who shall select other Villas Members to assist with the election process and the counting of ballots.

(d) The election shall be by a majority vote and shall be by secret ballot. Election will be by a plurality of votes cast, each person voting being entitled to cast his or her vote for as many nominees as there are vacancies to be filled. There shall be no cumulative voting.

(e) Notwithstanding anything to the contrary contained herein, Declarant shall not be required to or be responsible for organizing, conducting or noticing a meeting for the election of members of the Villas Board of Directors by the Villas Members upon or subsequent to the Villas Turnover Date unless Declarant elects to do so in its sole and absolute discretion.

5.7. Annual Meetings. The Villas Board of Directors shall hold its annual meeting at the same place as and immediately following each annual meeting of Villas Members for the purpose of the election of officers and the transaction of such other business as may come before the meeting. If a majority of the Villas Board of Directors are present at the annual meeting of Villas Members, no prior notice of the annual meeting of the Villas Board of Directors shall be required. However, another place and time for such meeting may be fixed by written consent of all of the members of the Villas Board of Directors.

5.8. Regular Meetings. Regular meetings of the Villas Board of Directors may be held without notice except for posting of notices as specified in Paragraph 5.12 at such time and at such place as shall be determined from time to time by the Villas Board of Directors.

5.9. Special Meetings. Special meetings of the Villas Board of Directors may be called by the Chairman of the Villas Board of Directors (if there is one), the President of the Villas Association or any member of the Villas Board of Directors. The person or persons authorized to call special meetings of the Villas Board of Directors may fix a reasonable time and place for holding such special meetings.

5.10. Telephone Meetings. Members of the Villas Board of Directors may participate in meetings of the Villas Board of Directors by means of a telephone conference or similar communications equipment by which all persons participating can hear each other at the same time, and participation by such means shall constitute presence in person at such a meeting.

5.11. Action Without Meeting. Any action of the Villas Board of Directors may be taken without a meeting if a consent in writing setting forth the action so taken signed by all of the members of the Villas Board of Directors is filed in the minutes of the Villas Association or the Villas Board of Directors, as applicable. Such consent shall have the same effect as a unanimous vote.

5.12. Notice and Waiver. All meetings of the Villas Board of Directors must be open to all Villas Members except for meetings between the Villas Board of Directors and its attorney with respect to proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney-client privilege. Notice of any special meeting shall be given at least three (3) days prior thereto by written notice delivered personally, by mail or by facsimile to each member of the Villas Board of Directors at his or her address or facsimile number. If mailed, such notice shall be deemed to be delivered three (3) days after being deposited in the United States Mail with postage prepaid. If notice is given by facsimile transmission, such notice shall be deemed to be delivered when the facsimile transmission is delivered as reflected on a facsimile confirmation sheet. Any member of the Villas Board of Directors may waive notice of any meeting, whether before, at, or after such meeting by executing a waiver of notice. The attendance of a member of the Villas Board of Directors at a meeting shall constitute a waiver of notice of such meeting and a waiver of any and all objections to the place of such meeting or the manner in which it has been called or convened except when a member of the Villas Board of Directors states at the beginning of the meeting any objection to the transaction of business because the meeting is not lawfully called or convened. Notices of all Villas Board of Directors meetings shall be posted in a conspicuous place within the Common Areas at least forty-eight (48) hours in advance of each Villas Board of Directors meeting, except in an emergency. A Villas Assessment may not be levied at a Villas Board of Directors meeting unless the notice of the meeting includes a statement that the Villas Assessments will be considered and the nature of the Villas Assessments.

5.13. Quorum and Voting. A majority of the Villas Board of Directors in office shall constitute a quorum for the transaction of business. The vote of a majority of the Villas Board of Directors present at a meeting at which a quorum is present shall constitute the action of the Villas

Board of Directors. If less than a quorum is present, then a majority of those members of the Villas Board of Directors present may adjourn the meeting from time to time without notice until a quorum is present. Members of the Villas Board of Directors may not vote by proxy or by secret ballot at Villas Board of Directors meetings, except that secret ballots may be used in the election of officers.

5.14. Vacancies. Any vacancy occurring in the Villas Board of Directors may be filled by the affirmative vote of a majority of the remaining members of the Villas Board of Directors even though it is less than a quorum of the Villas Board of Directors, unless otherwise provided by law or the Villas Articles of Incorporation. However, if applicable, any member of the Villas Board of Directors which Developer selected shall be replaced by a person designated by Developer. A member of the Villas Board of Directors elected to fill a vacancy shall hold office only until the next election of the Villas Board of Directors by the Villas Members.

5.15. Removal. At any meeting of Villas Members called expressly for that purpose, any member or members of the Villas Board of Directors may be removed from office, with or without cause, by vote of a majority of the Villas Members then entitled to vote at an election of the Villas Board of Directors. New members of the Villas Board of Directors may be elected by the Villas Members for the unexpired terms of members of the Villas Board of Directors removed from office at the same meetings at which such removals are voted upon. If the Villas Members fail to elect persons to fill the unexpired terms of the removed members of the Villas Board of Directors, and if the Villas Members did not intend to decrease the number of members of the Villas Board of Directors to serve on the Villas Board of Directors, then the vacancies unfilled shall be filled in accordance with provisions in these Villas Bylaws for vacancies.

5.16. Resignations. Any member of the Villas Board of Directors may resign at any time by submitting a written resignation which shall take effect at the time and as specified in the notice of resignation or if no time is specified, at the time of receipt by the President of the Villas Association. The acceptance of a resignation shall not be necessary to make it effective.

5.17. Presumption of Assent. A member of the Villas Board of Directors who is present at a meeting of the Villas Board of Directors at which action on any Villas Association matter is taken shall be presumed to have assented to the action taken unless he or she votes against such action or abstains from voting because of an asserted conflict of interest.

5.18. Increase of Number of Members of the Villas Board of Directors. The number of members of the Villas Board of Directors may be increased by amendment to these Villas Bylaws by the affirmative vote of a majority of the Villas Members at the annual meeting or at a special meeting called for that purpose. The additional members of the Villas Board of Directors may be chosen at such annual meeting by a majority vote of the Villas Members. Such new members of the Villas Board of Directors shall hold office until the next annual meeting and until the election, qualification and taking office of their successors.

5.19. Powers. All corporate powers shall be vested in and exercised under the authority of the Villas Board of Directors and the management and affairs of the Villas Association shall be controlled by the Villas Board of Directors. The Villas Board of Directors shall have all powers given to the Villas Board of Directors by the Villas Articles of Incorporation, these Villas Bylaws, the Governing Documents and Florida law and in addition shall have powers to:

(a) Suspend the voting rights of a Villas Member during any period in which such Villas Member shall be delinquent in the payment of any charges duly levied by the Association or the Villas Association;

(b) Exercise on behalf of the Villas Association all powers, duties and authority vested in or delegated to the Villas Association and not specifically reserved to the membership by the Governing Documents, Villas Articles of Incorporation or by other provisions of these Villas Bylaws;

(c) Declare the office of a member of the Villas Board of Directors to be vacant in the event that such member is absent from three (3) consecutive regular meetings of the Villas Board of Directors or six (6) regular meetings during any calendar year; and

(d) Employ a manager, independent contractors, and such other employees as they may deem necessary, and to prescribe their duties.

5.20. Duties. It shall be the duty of the Villas Board of Directors to:

(a) Supervise all officers, agents, and employees of the Villas Association and see to it that their duties are properly performed;

(b) Fix the amount of the annual Villas Assessment against each Lot in the Villas in advance of each annual Villas Assessment period, in accordance with the Villas Assessment provisions set forth in the Governing Documents;

(c) Send written notice of each Villas Assessment (annual Assessment or otherwise as set forth in the Governing Documents) to every Villas Owner subject thereto in advance of each Villas Assessment period;

(d) Foreclose the lien against any Lot in the Villas for which Assessments or Villas Assessments are not paid within thirty (30) days after the due date, or to bring an action at law against the Villas Owner personally obligated to pay the same;

(e) Issue, or cause an appropriate officer to issue, on demand by any person, a certificate setting forth whether or not any Villas Assessment has been paid. A statement in a certificate to the effect that a Villas Assessment has been paid shall constitute conclusive evidence of such payment. The Villas Board of Directors may impose a reasonable charge for the issuance of these certificates;

(f) Procure and maintain adequate liability and hazard insurance on all property owned or maintained by the Villas Association, including but not limited to the exterior of buildings located within the Villas;

(g) Cause all officers or employees of the Villas Association having fiscal responsibilities to be bonded, as it may deem appropriate; and

(h) Perform the maintenance, repair or replacement required to be performed by the Villas Association as provided in the Governing Documents.

5.21. Petition by Villas Members. If twenty percent (20%) of the total voting interests petition the Villas Board of Directors to address an item of business, the Villas Board of Directors shall at its next regular meeting or at a special meeting of the Villas Board of Directors, but not later than sixty (60) days after the receipt of the petition, take the petitioned item up on an agenda. Notice of the meeting at which the petitioned item shall be addressed shall be provided to the Villas Members by mail, hand delivery or electronic transmission and posted in a conspicuous place within the Common Areas not less than fourteen (14) days before the meeting at which said petition shall be heard. Each Villas Member shall have the right to speak for at least three (3) minutes on each matter placed on the agenda by petition, provided that the Villas Member signs the sign-up sheet, if one is provided, or submits a written request to speak prior to the meeting. The Villas Association may adopt written reasonable rules expanding the right of Villas Members to speak and governing the frequency, duration, and other manner of Villas Member statements, which rules must be consistent with this paragraph and may include a sign-up sheet for Villas Members wishing to speak. Other than addressing the petitioned item at the meeting, the Villas Board of Directors is not obligated to take any other action requested by the petition.

## ARTICLE VI. OFFICERS AND THEIR DUTIES

6.1. Officers. The officers shall be a President, Secretary and Treasurer, and as many Vice Presidents, Assistant Secretaries and Assistant Treasurers as the Villas Board of Directors shall from time to time determine, each of whom shall be elected by the Villas Board of Directors. A Chairman of the Villas Board of Directors, and such other officers and assistant officers as may be deemed appropriate may be elected by the Villas Board of Directors from time to time. Any two (2) or more offices may be held by the same person. Officers need not be residents of the State of Florida and

need not be Villas Members. A failure to elect a President of the Villas Association, Secretary of the Villas Association or Treasurer of the Villas Association shall not affect the existence of the Villas Association.

6.2. Election and Term of Office. The officers shall be elected annually by the Villas Board of Directors at its meeting after each annual meeting of Villas Members. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Each officer shall hold office until his or her successor shall have been duly elected and shall have qualified, or until his or her death, or until he or she shall resign or shall have been removed in the manner hereinafter provided.

6.3. Removal. Any officer may be removed from office at any time, with or without cause, on the affirmative vote of a majority of the Villas Board of Directors whenever, in its judgment, the best interests of the Villas Association will be served thereby. Removal shall be without prejudice to any contract rights of the person so removed, but election of an officer shall not of itself create contract rights.

6.4. Vacancies. Vacancies in offices, however occasioned, may be filled at any time by election by the Villas Board of Directors for the unexpired terms of such offices.

6.5. Duties. The Chairman of the Villas Board of Directors, or the President of the Villas Association if there is no Chairman of the Villas Board of Directors, shall preside at all meetings of the Villas Board of Directors and of the Villas Members. The President of the Villas Association shall be the chief executive officer of the Villas Association and shall, in general, control all of the business and affairs of the Villas Association. The Vice President of the Villas Association shall, in the case of the absence or disability of the President of the Villas Association, perform all of the duties of the President of the Villas Association. The Vice President of the Villas Association shall perform such other duties as may be assigned by the Villas Board of Directors or the President of the Villas Association. The Secretary of the Villas Association shall keep a record of the proceedings of the meetings of the Villas Board of Directors and the meetings of the Villas Members. The Secretary of the Villas Association shall also keep an accurate record of the attendance at meetings and shall have charge of the corporate seal and shall affix the corporate seal to such instruments as are authorized by the Board of Directors. The Treasurer of the Villas Association shall have charge of the funds of the Villas Association and shall keep a correct account of all monies received and disbursed by the Villas Association. The Treasurer of the Villas Association shall present a financial report to the Villas Board of Directors at each regular Villas Board of Directors meeting for the period since the date of the last Villas Board of Directors meeting. The Treasurer of the Villas Association shall also present a report of the receipts and disbursements for the previous year and a budget for the upcoming year at each annual meeting of the Villas Association. Subject to the foregoing, the officers shall have such powers and duties as usually pertain to their respective offices and such additional powers and duties specifically

conferred by law, by the Villas Articles of Incorporation, by the Governing Documents, by these Villas Bylaws, or as may be assigned to them from time to time by the Villas Board of Directors.

6.6. Delegation of Duties. In the absence or disability of any officer or for any other reason deemed sufficient by the Villas Board of Directors, any member of the Villas Board of Directors may delegate his or her powers or duties to any other officer to any other member of the Villas Board of Directors or to any other individual.

6.7. Compensation. Officers shall not receive any compensation for acting as such.

## ARTICLE VII. COMMITTEES

7.1. Creation of Committees. The Villas Board of Directors may, by resolution passed by a majority of the entire Villas Board of Directors, designate an Executive Committee and one (1) or more other committees.

7.2. Executive Committee. The Executive Committee (if there is one) shall consult with and advise the officers in the management of its affairs and shall have and may exercise, to the extent provided in the resolution of the Villas Board of Directors creating such Executive Committee, such powers of the Villas Board of Directors as can be lawfully delegated by the Villas Board of Directors.

7.3. Other Committees. Such other committees shall have such functions and may exercise such power of the Villas Board of Directors as can be lawfully delegated and to the extent provided in the resolution or resolutions creating such committee or Committees.

7.4. Meetings. Regular meetings of the Executive Committee (if there is one) and other committees may be held without notice at such time and at such place as shall from time to time be determined by the Executive Committee (if there is one) or such other committees, and special meetings of the Executive Committee (if there is one) or other committees may be called by any member thereof upon two (2) days notice to the other members of such committee, or on such shorter notice as may be agreed to in writing by each of the other members of such committee, given either personally or in the manner provided in these Villas Bylaws pertaining to notice of Villas Board of Directors' meetings. Notwithstanding the foregoing, meetings of any committee or other similar body, when a final decision will be made regarding the expenditure of Villas Association funds, shall be preceded by the posting of notice in a conspicuous place in the Common Areas at least forty eight (48) hours in advance of a meeting, except in an emergency.

7.5. Vacancies. Vacancies on the Executive Committee (if there is one) or on other committees shall be filled by the Villas Board of Directors then in office at any regular or special meeting of the Villas Board of Directors.

7.6. Quorum. At all meetings of the Executive Committee (if there is one) or other committees, a majority of the committee's members then in office shall constitute a quorum for the transaction of business.

7.7. Manner of Acting. The acts of a majority of the members of the Executive Committee (if there is one) or other committees present at any meeting at which there is a quorum shall be the act of such committee.

7.8. Minutes. The Executive Committee (if there is one) and the other committees shall keep regular minutes of their proceedings and report the same to the Villas Board of Directors when required.

#### ARTICLE VIII. VILLAS ASSESSMENTS

The Villas Assessments shall be used to implement and promote the security, recreation, health, safety and welfare of the Villas Members and for the improvement, maintenance and operation of the Villas. Villas Assessments shall be, including without limitation, computed, levied, collected and enforced as set forth in the Governing Documents.

#### ARTICLE IX. MINUTES, BOOKS, RECORDS AND REPORTS

9.1. Minutes. Minutes of all meetings of the Villas Members and of the Villas Board of Directors shall be maintained in written form or in another form that can be converted into written form within a reasonable time. A vote or abstention from voting on each matter voted upon for each member of the Villas Board of Directors present at a Villas Board of Directors meeting must be recorded in the minutes.

9.2. Report to Villas Members. In accordance with Florida law, not later than sixty (60) days after the close of each fiscal year the Villas Association shall provide each Villas Member with either: (i) a copy of the annual financial report of the Villas Association; or (ii) a written notice stating that a copy of the financial report of the Villas Association is available upon request at no charge to the Villas Member. Such financial report shall include a balance sheet as of the close of the fiscal year of the Villas Association and a revenue and disbursement statement for the year ending on such closing date. Such financial statements shall be prepared from and in accordance

with the books of the Villas Association, in conformity with generally accepted accounting principles applied on a consistent basis. Such financial report or such notice, as applicable shall be made public by mailing it to each Villas Member addressed to the Villas Member's address last appearing on the books of the Villas Association or supplied in writing by such Villas Member to the Villas Association for the purpose of receiving notice, by posting in a conspicuous place in the Common Areas or publishing it in a publication regularly distributed in the Villas.

9.3. Inspection of Corporate Records. The official records of the Villas Association shall be maintained within the State of Florida and in accordance with the law in effect at the time this Declaration is recorded, as such law may be amended from time to time. The requirement for maintenance and inspection of the official records of the Villas Association may be complied with by having a copy of the official records available for inspection or copying within the Villas. The Villas Association may adopt reasonable written rules governing the frequency, time, location, notice and manner of inspection, and may impose fees to cover the costs of providing copies of the official records, including without limitation, the costs of copying. The Villas Association shall maintain an adequate number of copies of the recorded Governing Documents and Villas Covenants, to ensure their availability to Villas Members and prospective members, and may charge its actual costs for reproducing and furnishing same.

#### ARTICLE X. CORPORATE SEAL

The Villas Association shall have a corporate seal and shall have the name of the corporation and the word "seal" inscribed on it, and it may be an engraved, printed or impression seal.

#### ARTICLE XI. FISCAL YEAR

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

#### ARTICLE XII. AMENDMENTS

These Villas Bylaws may be repealed or amended, and additional Villas Bylaws may be adopted, if approved at an annual or special meeting called for that purpose by either a vote of a majority of the Villas Board of Directors or by a majority vote of the total number of Villas Members, but the Villas Board of Directors may not amend or repeal any Villas Bylaw adopted by Villas Members if the Villas Members specifically provide that the Villas Bylaw is not subject to amendment or repeal by the Villas Board of Directors. Notwithstanding any other provision herein to the contrary, no amendment to these Villas Bylaws shall affect the rights of Declarant unless such amendment receives the prior written consent of Declarant, which consent may be withheld for any reason whatsoever.

### ARTICLE XIII. CONFLICTS

In the case of any conflict between the Villas Articles of Incorporation and these Villas Bylaws, the Villas Articles of Incorporation shall control; in the case of any conflict between the Governing Documents and these Villas Bylaws, the Governing Documents shall control.