

Article I: Definitions and Construction

Unless the context expressly requires otherwise, the following terms mean as follows wherever used in this Declaration:

Section 1. "Articles of Incorporation" or "Articles" means the Articles of Incorporation of the Association, as may be amended from time to time. A copy of the Articles of Incorporation as filed with the Florida Department of State is attached as Exhibit B hereto. Any future amendments to the original Articles need not be recorded in the public records of Lee County, Florida.

Section 2. "Assessment" collectively means the General Assessment, Special Assessments and Specific Assessments as provided and described in Article VIII herein.

Section 3. "Association" means Timber Ridge Neighborhood Association, Inc., a Florida corporation not for profit, organized or to be organized under Chapter 617, Florida Statutes.

Section 4. "Board" or "Board of Directors" means the Association's board of directors.

Section 5. "By-Laws" means the by-laws of the Association as may be amended from time to time. A copy of the original By-Laws is attached as Exhibit C hereto. Any future amendments to the original By-Laws need not be recorded in the public records of Lee County, Florida.

Section 6. "Common Expenses" means all expenses properly incurred by the Association in the performance of its duties pursuant to this Declaration, the Articles, the By-Laws or any rules promulgated thereunder, or any agreement properly entered into by the Association, including, but not limited to:

(a) the expenses incurred in connection with the ownership, maintenance, repair, replacement, reconstruction or improvement of the Common Property and/or real property held in title by the Association, if any, as provided for pursuant to this Declaration (which expenses may, but shall not necessarily, include utilities, taxes, assessments, insurance and repairs);

(b) the expenses of obtaining, repairing or replacing personal property owned by the Association;

(c) the expenses incurred in the administration and management of the Association; and

(d) the expenses declared to be Common Expenses pursuant to this Declaration or the Articles or the By-Laws.

Section 7. "Common Property" or "Common Properties" mean any portion or portions of the Property now or hereafter owned by the Association or designated herein or on any plat of the Property as recorded in the public records of the County, as from time to time may be amended ("Plat"), as either Common Property or property to be maintained by the Association (whether or not such property is part of a dedicated right-of-way or easement). "Common Property" shall include (a) any landscaping in any median or cul-de-sac island located in any right-of-way as shown on the Plat (whether or not these areas are indicated as common

areas), (b) all fencing installed on a Lot and required to be maintained by the Association pursuant to this Declaration, (c) any tracts for rights-of-way or access easements and corresponding roads and streets, and (d) any utility easements or tracts for corresponding sewer or potable water.

Section 8. "County" means Lee County, Florida.

Section 9. "Declaration" means this instrument, as may be amended from time to time.

Section 10. "Developer" means Bay Colony-Gateway, Inc., a Delaware corporation and its successors, assigns and designees.

Section 11. "District" shall mean and refer to the Gateway Services District, a special taxing district established by the State of Florida in accordance with Chapter 190, Florida Statutes. The District shall (a) care for and maintain any lakes and associated equipment located wholly on the Property, (b) be responsible for the water management system on the Property, including drainage facilities, lake maintenance and storm water storage and capacity for the Community, subject to the requirements of the South Florida Water Management District, and (c) be responsible and undertake other matters as described herein or for which the District is responsible pursuant to separate instrument or requirement.

Section 12. "DRB" means the Design Review Board established pursuant to Article IV of this Declaration.

Section 13. "Dwelling" means a residential housing unit consisting of a group of rooms which are designed or intended for the exclusive use as living quarters for one Family as constructed by the Developer upon a Lot.

Section 14. "Family" means one or more persons each related to the other by blood, marriage, or legal adoption, or a group of not more than three (3) persons not all so related, together with domestic servants if any, maintaining a common household in a Dwelling.

Section 15. "First Mortgage" means a valid Mortgage (as defined hereinafter) having priority over all other mortgages on the same property.

Section 16. "First Mortgagee" means the holder of a recorded First Mortgage encumbering a Lot and the Dwelling thereon, if any.

Section 17. "Gateway" shall mean and refer to those certain lands located in Lee County, Florida with the general boundary of Interstate 75 to the west, Colonial Boulevard Extension to the north, State Road 82 to the east, and Daniels Road to the south, and certain lands located to the west of Interstate 75, and such other lands as may, from time to time, be added to or subtracted from said lands pursuant to Article 2.

Section 18. "Gateway Development Order" shall mean and refer to the Development Order of Gateway, A Development of Regional Impact #1-8384-36, adopted by the Lee County Board of County Commissioners on May 31, 1985, including any modifications or amendments thereto which have been or may be adopted from time to time.

Section 19. "General Development Plan" shall mean and refer to the Developer's plan of Gateway as it may be amended from time to time by Developer, showing the land uses and the property units assigned by Developer to the various portions of the property.

Section 20. "Homeowner" means any person who from time to time holds record title to any Lot. If more than one person holds such title, all such persons are Homeowners, jointly and severally. The Developer is a Homeowner with respect to each Lot from time to time owned by such Developer.

Section 21. "Lot" means each numbered lot as established by a recorded Plat of all or a portion of the Property.

Section 22. "Mortgage" means any valid instrument transferring any interest in real property as security for the performance of an obligation.

Section 23. "Person" means any natural person or artificial entity having legal capacity.

Section 24. "Property" means the real property described in Article II of this Declaration.

Section 25. "PUD" shall mean and refer to the document titled "Lee County Ordinance No. 85-15", an ordinance creating the Gateway Planned Unit Development (PUD), adopted by the Board of County Commissioners of Lee County, Florida, on May 31, 1985, as may from time to time be modified or amended.

Section 26. "Resident" means a permanent occupant of a Lot.

Section 27. "Work" means the development of all or any portion of the Property as a residential community by Developer's construction and installation of streets, dwellings, buildings, and other improvements and the sale or other disposition of the Property and improvements thereon in parcels or as completed Lots.

Section 28. The term "Article" and the term "paragraph" where used throughout this Declaration shall mean the same, unless the context requires otherwise.

Section 29. The term "Section" where used throughout this Declaration shall refer to that portion of the Article indicated, unless the context requires otherwise.

Unless the context expressly requires otherwise: (i) the use of the singular includes the plural and vice versa; (ii) the use of one gender includes all genders; (iii) the use of the terms "including" or "include" is without limitation; (iv) the use of the term "Lot" includes any portion applicable to the context thereof, any and all improvements, fixtures, trees, vegetation, and other property from time to time situated thereon, and any and all appurtenant rights; and (v) the words "must," "should," and "will" have the same legal effect as the word "shall." This Declaration should be interpreted, construed, applied, and enforced in a reasonable, practical manner to effectuate its purpose of protecting and enhancing the value, marketability, and desirability of the Lots by providing a common plan for their development and enjoyment. The various headings used in this Declaration are for indexing and organizational purposes only and are not to be used to interpret, construe, apply, or enforce its substantive provisions.

Article II: Property Subject to This Declaration

The real property which is, and shall be, held, transferred, sold, conveyed, and occupied subject to this Declaration is located in the County of Lee, State of Florida, and is more particularly described in the metes and bounds description attached hereto as Exhibit A and

incorporated by reference as fully as if specifically repeated herein, and all of which real property shall hereinafter be referred to as "Property."

Article III: Property Rights, Easements and Restrictions

Section 1. **Appurtenances.** The benefit of all rights and easements granted by this Article constitute a permanent appurtenance to, and will pass with, the title to every Lot enjoying such benefit. Whenever any such right or easement is described as non-exclusive by this Article, its benefit nevertheless is exclusive to all Lots granted such benefit by this Article unless this Article expressly grants such benefit to other persons. In no event will the benefit of any such easement extend to the general public.

Section 2. **Utility Easements.** Developer has identified areas for use by all utilities for the construction and maintenance of their respective facilities servicing the Property, and Developer hereby grants to such utilities, jointly and severally, easements for such purpose. The location and extent of such easements are as shown on the Plats (recorded or to be recorded) of the Property or such other instrument defining them. In addition to the above, Developer hereby reserves unto itself and its successors and assigns an easement over, under, across and through the Common Property as may be required for the construction, maintenance and operation of a two-way communication and security system. Such utilities, as well as Developer, and their respective agents, employees, designees and assigns shall have full rights of ingress and egress over any Lot for all activities appropriately associated with the purposes of said easements.

Section 3. **Common Properties.** Subject to the provisions of subsection (b) below, every Homeowner shall have a non-exclusive right and easement of enjoyment in and to the Common Properties, if any, and such easement shall be appurtenant to and shall pass with the title to every Lot situated within the Community.

(a) **Extent of Members' Easement.** The rights and easements of enjoyment created herein shall be subject to the following:

(i) the right of the Association to limit the use of the Common Properties to Homeowners, their families and guests;

(ii) the right of the Association to suspend the voting and enjoyment rights of a Homeowner for any period during which any assessment against such Homeowner's Lot remains unpaid, or for any infraction of the Association's published rules and regulations;

(iii) the right of the Association to dedicate or transfer all or any part of the Common Property to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Homeowners. No such dedication or transfer shall be effective unless the Members entitled to at least $\frac{2}{3}$ of the total Class A votes and all of the Class B votes agree to such dedication or transfer, provided that this paragraph shall not preclude the Board from granting easements for the installation and maintenance of electrical, telephone, special purpose cable for television and other uses, water and sewer, utilities and drainage facilities upon, over, under and across the Common Property without the assent of the membership; and

(iv) the right of the Association to impose reasonable covenants and restrictions with respect to the use of the Common Properties in addition to those set forth herein.

(b) Extension of Rights and Benefits. Every Homeowner shall have the right to extend the rights and easements of enjoyment vested in him under this Article to each of his tenants and to each member of his Family who resides with him and to such other persons as may be permitted by the Association.

Section 4. Lots. The following covenants, restrictions and easements are hereby imposed on the Lots, as may be applicable, in the Community:

(a) General Restrictions. The following restrictive covenants are easements and covenants running with the land and are binding upon all Homeowners, Residents, and other occupants and their respective successors and assigns:

(i) The Lots and the Dwelling and other improvements thereon shall be used only for single-family residential purposes, and no professional, business or commercial use shall be made of the same, or any portion thereof, provided further that nothing herein shall be construed in such a manner as to prohibit a Homeowner from (a) maintaining his personal professional library therein; (b) keeping his personal, business or professional records or accounts therein; or (c) handling his personal, business or professional telephone calls or correspondence therefrom. No Dwelling shall exceed two stories in height or 35 feet as measured from the minimum finished grade to the mean height level between eaves and ridge of gable, hip gambrel roofs and to the deck line of a mansard roof. The minimum floor area of any Dwelling shall be 1,200 square feet of air conditioned living area.

(ii) Perpetual, non-exclusive easements are hereby created over the rear 10 feet of each Lot for purposes of permitting Developer and/or the Association to construct and erect landscaping, fences, hedges or other buffers as a means to separate the Lots.

(iii) No noxious or offensive activity shall be conducted upon any Lot, nor shall anything be done thereon which may become an annoyance or nuisance to the Community. No inflammable, combustible or explosive fluid or chemical substance shall be kept on any Lot except such as are required for normal household use, and same shall be kept within the Dwelling constructed thereon. No Homeowner shall permit or suffer anything to be done or kept in his Dwelling or, where applicable, on his Lot which will increase the rate of insurance as to other Homeowners or to the Association.

(iv) No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence either temporarily or permanently, except that Developer may place any type of temporary structure on any Lot at any time to aid in its construction and/or sales activities.

(v) No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be maintained in sanitary containers or as required by the Association or the applicable ordinances of the County or the District, as may be applicable. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

(vi) No individual water supply system or irrigation system (including the installation of pumps related thereto) not connected to the County or District water supply system shall be permitted on any Lot, and no individual may install a pump or otherwise divert any waters from any lake located wholly or partially on the Property for purposes of irrigation or any other purpose. The provisions of this paragraph shall not be amended or modified until December 31, 2020; in addition, for so long as Developer and its successors and assigns owns

any real property in Gateway, no amendment or modification to this paragraph shall be effective without the express prior written consent of Developer or its successors or assigns.

(vii) No individual sewage disposal system shall be permitted on any Lot unless such system is designed, located and constructed in accordance with the requirements, standards and recommendations of the Architectural Committee and all applicable governmental authorities. Prior written approval of such system as installed shall be obtained from the Architectural Committee and such governmental authorities.

(viii) There shall be no alteration, addition or improvement of any Common Properties, except as provided in this Declaration, nor shall any person use the Common Properties or any part thereof in any manner contrary to or not in accordance with the rules and regulations pertaining thereto as from time to time may be promulgated by the Association or approved and authorized in writing by the Association.

(ix) No motor vehicles of any type or nature or trailers or campers or boats or boat trailers may be parked upon any sale area, if applicable, within the Community, except trucks and the like may be parked briefly for delivery purposes. No trucks, trailers, campers, boats or boat trailers, or recreational vehicles may be parked in any driveway or upon any Lot or upon the roads of the Community for more than 24 continuous hours. No motor vehicle or boat repair work shall be conducted on any Lot other than for very minor repairs.

(x) The Board of Directors may from time to time adopt or amend previously adopted rules and regulations governing the details of the operation, use, maintenance, management and control of the Common Properties and governing and restricting the use and maintenance of the Lots and improvements and landscaping thereon; provided, however, that copies of such rules and regulations are furnished to each Homeowner prior to the time same became effective and provided that said rules and regulations are a reasonable exercise of the Association's power and authority based upon the overall concepts and provisions in this Declaration.

(xi) Satellite dishes, aerials, antennas and all lines and equipment related thereto located wholly within the physical boundaries of a Dwelling shall be permitted without any requirement for approval from the Board of Directors.

Satellite dishes, aerials and antennas (including, but not limited to, ham radio antennas) shall not be permitted on the non-enclosed dwelling portions of a Lot except to the extent required to be permitted by applicable law (including, but not limited to, the federal Telecommunications Act of 1996). The Association shall have the right and authority, in its sole discretion and from time to time, to promulgate rules and regulations concerning the size and location of, and safety restrictions pertaining to, the installation of such television signal reception equipment.

Notwithstanding any provision to the contrary, the Association, in its discretion and from time to time, shall have the power and ability to erect or install any satellite dish, aerial or antenna or any similar structure on the Common Property provided that such satellite dish, aerial or antenna be solely utilized for the reception of television signals to be utilized by the residents of the Community or for security purposes.

Notwithstanding any provision to the contrary, only antennae, aerials and satellite dishes which are designed to receive television signals shall be permitted (i.e., no antennae and satellite dishes which broadcast a signal shall be permitted).

(xii) A Homeowner shall be entitled to construct, maintain and operate solar collection devices ("Solar Collectors") and/or energy devices based upon renewable resources (collectively, a Solar Collector and any other energy device based upon renewable resource shall be referred to as an "Energy Device"), on such Homeowner's Lot; provided, however, that the Homeowner must obtain the written approval of the Developer (until such time as the Developer has conveyed all Lots in the Community to third-parties) or the Architectural Committee (following conveyance by the Developer of all Lots in the Community to third-parties), as the case may be, prior to placing, installing or constructing an Energy Device on such Lot. Until such time as the Developer has conveyed all Lots in the Community to third parties, the Developer shall be solely responsible to promulgate rules and regulations as are reasonably necessary to carry out the provisions and intent of this subsection. Following conveyance by the Developer of all Lots in the Community to third parties, the Architectural Committee shall be solely responsible to promulgate rules and regulations as are reasonably necessary to carry out the provisions and intent of this subsection. All rules and regulations promulgated in accordance with this subsection shall be collectively referred to as the "Energy Device Rules and Regulations."

An approval for an Energy Device shall be issued by the Developer or the Architectural Committee, as the case may be, only in accordance with the Energy Device Rules and Regulations. With regard to Solar Collectors, the Developer or the Architectural Committee, as the case may be, may determine the specific location where a Solar Collector may be installed on the roof of a Dwelling within an orientation to the south or within 45° east or west of due south, provided that such determination does not impair the effective operation of the Solar Collector. Whenever and wherever possible, a Solar Collector shall be installed on the rear portion of a roof on a Dwelling so as to minimize the visual impact of the Solar Collector from the roadways adjacent to the subject Lot. Similarly, all Energy Devices other than Solar Collectors shall be installed in a manner so as to minimize the impact on other Lots in the Community. "Minimal visual impact" as used in this subsection shall mean that the visual impact of an Energy Device on a Lot shall be minimized by reasonable measures as set forth in the Energy Device Rules and Regulations. Considerations of optimal placement of an Energy Device shall yield to aesthetic considerations and the goal of minimal visual impact. Additional criteria for determining whether or not an Energy Device has a "minimal visual impact" also may be prescribed in the Energy Device Rules and Regulations.

(xiii) There shall be no wall or window type air conditioning unit(s) in any Dwelling.

(xiv) No Lot shall be increased in size by filling in any water it may abut. The elevation of a Lot may not be changed so as to materially affect the surface elevation or grade of the surrounding Lots without the prior written approval of the Architectural Committee.

(xv) No artificial grass, plants or other artificial vegetation shall be placed or maintained upon the exterior portion of any Lot, unless approved by the Architectural Committee. No more than 10% of any Lot shall be planted, covered or maintained in any material other than grass or other natural, living vegetation, unless approved by the Architectural Committee.

(xvi) No automobile garage shall be permanently enclosed and converted to other use without the substitution of another enclosed automobile storage facility upon the Lot. All Lots shall have a paved driveway of stable and permanent construction. Unless prior approval of the Architectural Committee is obtained, the driveway base shall be concrete. No driveway surface shall be painted, repainted, or otherwise artificially colored or recolored without the prior approval of the Architectural Committee.

(xvii) No wall, fence, hedge or shrubbery shall be constructed or placed on any Lot until its height, length, type, design, composition, material and location shall have first been approved in writing by the Architectural Committee. The height of any wall or fence shall be measured from the existing property elevations. Any dispute as to height, length, type, design, composition or material shall be resolved by the Architectural Committee, whose decision shall be final. Hurricane or storm shutters shall not be stored on the exterior of the Dwelling without the prior approval of the Architectural Committee in writing. No awnings or shutters shall be used without the prior approval of the Architectural Committee in writing.

(xviii) No sign of any kind shall be displayed to the public view on any Lot, except for the following:

(1) The exclusive sales agent for the Homeowner or the Homeowner may place one (1) professional sign not to exceed two (2) square feet advertising the property for sale or rent.

(2) Additionally, a sign displaying the word "open," not to exceed two (2) square feet, may be displayed during any time the Homeowner or his designated representative is in attendance.

The size and design of all signs mentioned above and of signs pertaining to house numbering, mailboxes and other such material shall be subject to the approval by the Architectural Committee.

The provisions of this subsection shall not apply to Developer.

(xix) Commercial activities involving animals shall not be allowed. Developer may establish limits on the number and kind of pets that may be kept or permitted to be kept on any Lot. No hogs, pigs, swine, goats, chickens, pigeons, fowl, reptiles or any other obnoxious animals, as shall be determined in the sole discretion of Developer, shall be kept or permitted to be kept anywhere on the Property. Any pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Property upon three (3) days' written notice by the Association to the Homeowner thereof or to the Homeowner of the Lot containing such pet.

(xx) Each Lot and the Common Property are hereby subjected to a permanent easement appurtenant to any adjoining Lot to permit the use, construction, existence, maintenance, repair and restoration of Dwellings located on such adjoining Lot, including, but not limited to, driveways, walkways and roof structures which overhang and encroach upon the servient Lot or Common Property, if any, provided that such structures were constructed by Developer or the construction of such structure is permitted and approved as elsewhere herein provided. The owner of the dominant tenement shall have the right, at all reasonable times, to enter the easement area in order to make full use of such structure for its intended purposes and to maintain, repair and restore any improvements located on the dominant tenement; provided, however, that any such entry made for purposes of maintenance, restoration or repair shall be limited to daylight hours and shall only be made with the prior knowledge of the owner of the servient tenement. In case of emergency, the right of entry for maintenance, restoration or repair shall be immediate, not restricted as to time and not be conditioned upon prior knowledge of the owner of the servient tenement. The owner of the servient tenement shall not place any improvement, material or obstacle in or over the easement area on the servient tenement which would unreasonably interfere with the rights of the owner of the dominant tenement granted by this paragraph. Any such improvement, material or obstacle shall be promptly removed by the owner of the servient tenement at that

owner's expense when requested by the owner of the dominant tenement or Developer notwithstanding any lapse of time since such improvement, material or other obstacle was placed in or over the easement area.

(xxi) Where a Lot abuts any body of water, the Homeowner of such Lot shall be responsible for maintaining all grass areas lying between the water's edge and such Lot. No amendment to this paragraph shall be effective without the express prior written consent of Developer.

(xxii) Permanent propane storage tanks (defined for these purposes as any propane storage tank weighing greater than 30 pounds when completely filled with propane gas and which is not attached as a part of a portable barbecue grill) shall not be permitted on any Lot except with the prior written consent of the Developer (until the Developer no longer owns any Lots in the Community) or the Architectural Committee (following sale of all Lots by the Developer to third parties), as the case may be. All permanent propane storage tanks shall be located beneath the visible ground surface of the Lot, it being Developer's intention to maintain an aesthetically-pleasing community. In order to ensure the aesthetic qualities of the Community, the provisions of this subparagraph may not be amended without the prior written consent of the Developer.

(xxiii) All landscaping on a Lot shall be accomplished in accordance with a plan submitted to and approved by the Architectural Committee. All areas not covered by structures, walkways or paved parking facilities shall be maintained as lawn or landscape areas, with underground sprinkler systems, to the pavement edge of any abutting streets and to the waterline of any abutting lakes, canals, flowways or water management areas not to exceed thirty-five feet beyond the boundary line of a Lot. No stone, gravel, or paving of any type shall be used as a lawn unless approved as part of the final landscape plan. All required lawns and landscaping shall be completed at the time of completion of the principal Dwelling on the Lot as evidenced by the issuance of a Certificate of Occupancy by the appropriate governmental agency, and shall be kept in good and living condition by the Homeowner to the satisfaction of the Architectural Committee.

(xxiv) Roofs shall have a minimum pitch of 5:12, except that deviation from the minimum pitch may be approved by the Architectural Committee in specific circumstances. All roofs shall be constructed of flat, barrel, S-tile, villa or cement tile as defined by common usage in the County. In the event some new and attractive material for roofing surfaces is discovered or invented, the Architectural Committee may, in its sole discretion, approve the use of such new material (provided, however, that the Architectural Committee shall only be permitted to issue such approval with the prior written approval of the Developer until such time as the Developer no longer owns any Lots in the Community).

(xxv) No Dwelling may be leased except by means of a written lease agreement. No lease shall permit any term or extension period of less than 1 month in duration. No Dwelling may be leased more than 3 times in any 12 month period. Each Homeowner shall be required to provide the Association with a copy of any lease agreement entered into respecting a Dwelling within one week of the execution thereof or prior to the date of occupancy thereunder, whichever is earlier. Every lease agreement shall bind the tenant to obey all rules and regulations which apply to the Dwelling or Homeowner as a condition of the tenancy and shall designate Developer or its designee and the Association as third party beneficiaries entitled to enforce this requirement of the lease. A current set of the rules shall be delivered to tenant upon execution of the lease. The provisions of this Section shall not apply to Dwellings which are leased by Developer and utilized as model homes for the Community or Gateway.

(b) Provisions Inoperative as to Initial Construction. Nothing contained in this Declaration will be interpreted, construed, or applied to prevent Developer, or its or their contractors, subcontractors, agents, and employees, from doing or performing on all or any part of the Property owned or controlled by Developer, whatever they determine to be reasonably necessary or convenient to complete the Work, including:

(i) Improvements. Erecting, constructing, and maintaining such structures and other improvements as may be reasonably necessary or convenient for the conduct of such Developer's business of completing the Work, establishing the Property as a residential community, and disposing of the same in parcels or Lots by sale, lease, or otherwise; or

(ii) Development. Conducting thereon its business of completing the Work, establishing the Property as a residential community, and disposing of the Property in parcels or Lots by sale, lease or otherwise; or

(iii) Signs. Maintaining such signs as may be reasonably necessary or convenient in connection with the sale, lease or other transfer of the Property in parcels or Lots.

(c) Access by Association. The officers, employees, or designated agents of the Association have a right of entry onto the exterior of each Lot to the extent reasonably necessary to discharge any duty imposed, or exercise any right granted, by this Declaration or to investigate or enforce the provisions of the Declaration and the rules and regulations of the Association. Such right of entry must be exercised in a peaceful and reasonable manner at reasonable times, and the entry may be only upon reasonable notice whenever circumstances permit. Entry into any improvement upon any Lot may not be made without the consent of its Homeowner or occupant for any purpose, except pursuant to court order or other authority conferred by law. Such consent will not be unreasonably withheld or delayed.

(d) General Easements. In the event that any part of any Dwelling encroaches or shall hereafter encroach upon any part of any other Lot or the Common Property, valid easements for the maintenance of such encroachments are hereby established and shall exist so long as all or any part of the same shall remain standing; provided, however, that in no event shall a valid easement for any encroachment be created in favor of any Homeowner if such encroachment or use is detrimental to or interferes with the reasonable use and enjoyment of the Dwelling of another Homeowner and if it occurred due to the willful conduct of any Homeowner.

Section 5. Ingress and Egress. Each Homeowner shall have a perpetual unrestricted easement over, across and through the Common Property for the purpose of ingress to and egress from his Lot, subject only to the right of the Association to impose reasonable and non-discriminatory rules and regulations governing the manner in which such easement is exercised, which easement shall be appurtenant to and pass with ownership to each Lot.

Section 6. Restrictions on Use of Lakes, Waterways, Wetlands, or Other Bodies of Water. With respect to any lakes, waterways, wetlands or other bodies of water located on the Property, no Homeowner, Resident or any temporary occupant of a Lot shall: (i) disturb, remove, alter or in any way disrupt vegetation thereon; (ii) construct permanent or temporary docks or seawalls; (iii) connect to any lake, waterway, wetland or other body of water through the use of a well, pump, ditch or other system of any nature for any purpose, including, but not limited to, lawn irrigation, lawn maintenance, water features or for any other use; and (iv) be

permitted to fish or place a boat on or within such areas. In addition, no Homeowner, Resident or any temporary occupant of a Lot shall dig a well on any Lot for any purpose, including but not limited to lawn irrigation, lawn maintenance, water features or for any other use; and (iv) be permitted to fish or place a boat on or within such areas. The provisions of this paragraph shall not apply to Developer. No amendment to this paragraph shall be effective without the express prior written consent of Developer.

Article IV: Architectural and Design Review

Section 1. Architectural and Design Standards. The Board of Directors shall adopt from time to time specific architectural and design standards or criteria for the Property, which standards shall be applied by the DRB and the Board as provided hereinafter.

Section 2. Role of the DRB. The purpose of the DRB to insure the development of the Property as a commercial project or projects of the highest quality and standards and to insure that all Dwellings or portions thereof or any other improvements on each Lot shall present an attractive and pleasing appearance from all sides of view.

Section 3. Composition of the DRB. Until such time as Developer no longer owns any property contained within Gateway or records in the public records of the County a disclaimer as to all rights and duties concerning the DRB, Developer shall have the sole and exclusive power to appoint the chairman and members of the DRB (who need not be members of the Association). Upon such time as Developer no longer owns any property contained within the Community or records in the public records of the County a disclaimer as to all rights and duties concerning the DRB, the Board shall appoint the chairman and members of the DRB, the Board may remove DRB member(s) if determined beneficial, and, where a vacancy or vacancies on the DRB occurs, a successor or successors shall be appointed by the Board.

Section 4. Powers of the DRB. The DRB shall evaluate, control and approve construction, remodeling, or additions to the Dwellings or any portion thereof or any other improvements, as well as all landscaping plans, on each Lot in the manner and to the extent set forth herein. Work (save and except for improvements on a Lot that are solely contained within the physical confines of a Dwelling and in no manner affect the façade, facings or exterior surfaces of such Dwelling) shall not be commenced unless and until building and construction plans and specifications covering same ("Plans and Specifications"), showing such information as may be required by the DRB, have been submitted to and approved in writing by the DRB. Acceptance or rejection of Plans and Specifications shall be made by majority vote of the DRB.

Section 5. Plans and Specifications. The DRB requires that all Plans and Specifications be accompanied by site plans which show the siting of all physical improvements on the Lot under consideration. As a prerequisite to consideration for approval, and prior to beginning the contemplated work, a minimum of 3 complete sets, or as many as requested by the DRB, of Plans and Specifications must be submitted to the DRB. In addition, if requested by the DRB, there shall be submitted to the DRB for consideration such samples of building materials proposed to be used as the DRB shall specify and require. All Plans and Specifications shall be prepared by an architect and/or professional engineer registered in the State of Florida. The architect and/or professional engineer submitting the Plans and Specifications must state in writing that he has visited the site and is familiar with all existing site conditions. These requirements pertaining to Plans and Specifications may be waived, in whole or in part, by the DRB upon application of the Homeowner showing good cause for waiving such requirement(s). All requests for improvements must be submitted on the most recently promulgated Association forms. Each page is to be numbered, signed and dated by all adjacent neighbors and DRB members evaluating the request.

Section 6. Recommendations of the DRB. Once the DRB has received and reviewed the Plans and Specifications submitted by a Homeowner, the DRB may either (a) make a decision to either approve or disapprove the proposal of the Homeowner or (b) request additional information as the DRB deems necessary in its discretion to be able to render a decision. At such time as a decision to approve or disapprove is made, the DRB shall have no further action to take with regard to the Homeowner's proposal until such time as the Homeowner resubmits revised Plans and Specifications for consideration.

Section 7. Approval of Plans and Specifications. Upon written approval of the DRB, Work may be commenced and shall be prosecuted to completion promptly and in strict conformity with such Plans and Specifications. Any approval issued by the DRB for which Work is not commenced within 180 days from the date of issuance of the written approval shall be deemed to be null and void, and the Homeowner shall be required to resubmit Plans and Specifications to the DRB for review and approval, unless such requirement is waived in writing by the DRB (which shall have the effect of continuing the original approval). The DRB shall be entitled to stop any Work in violation of these restrictions, and any Work undertaken without application having first been made and approval obtained as provided above shall be deemed to be in violation of this covenant and may be required to be restored to the original condition at the Homeowner's expense. All costs and expenses of the Association (including attorney's fees) related to the enforcement of these covenants shall be paid by the Homeowner in violation thereof. All construction activities as approved by the DRB must comply substantially with the Plans and Specifications as approved by the DRB.

Section 8. Rejection of Plans and Specifications. The DRB shall have the right to refuse to approve any Plans and Specifications which are not suitable or desirable in its opinion for any reason, including purely aesthetic reasons and reasons connected with future development plans of Developer. In the event the DRB rejects such Plans and Specifications as submitted, the DRB shall so inform the Homeowner in writing, stating with reasonable detail the reason(s) for disapproval. In rejecting such Plans and Specifications, the DRB may take into consideration the suitability and desirability of the proposed activities and results proposed by the Homeowner, the materials proposed to be used in connection with such activities on the Lot, the quality of the proposed workmanship and materials, the harmony of external design with the Community and Gateway, the surrounding neighborhood and existing structures therein, and the effect and appearance of such construction as viewed from neighboring properties and upon Community and Gateway residents.

Section 9. Appeal by Aggrieved Homeowner. If the DRB rejects such Plans and Specifications, the aggrieved Homeowner may appeal such adverse decision to the Board. The Board can either reverse the decision of the DRB and approve the Plans and Specifications as submitted by the Homeowner, or reject the appeal, in which event the aggrieved Owner may appeal such adverse decision by submitting in writing to the Board a request for a special meeting of all Homeowners to consider the propriety of the Board's decision within 10 days after receipt of such written request. The Board thereafter shall call a special meeting, and the costs pertaining to such special meeting shall be borne by the appealing Homeowner. At such special meeting, the proposal made by the Homeowner and the decision of the DRB and the Board, together with the stated reasons for the rejection of the proposal, shall be made available to all Homeowners. A vote of a majority of the total voting interests present in person or by proxy of a duly-called and noticed meeting of the Association Members at which a quorum is present (excluding the Developer) shall be necessary to overturn an adverse decision of the DRB and the Board against the Homeowner.

Section 10. Compliance with Governmental Regulations. In addition to the foregoing requirements, any Work must be in compliance with the requirements of all controlling

governmental authorities, and the Homeowner shall be required to obtain an appropriate building permit from the applicable governmental authorities when required by controlling governmental requirements. Any consent or approval by the DRB to any Work may be conditioned upon the Homeowner requesting such approval, obtaining a building permit for same, or providing the Association with written evidence from the controlling governmental authority that such permit will not be required, and in that event, the Homeowner requesting architectural approval shall not proceed with any Work until such building permit or evidence that a building permit is not required is submitted to the Association.

Section 11. Enforcement of Restrictions; Exemptions. Developer shall have the responsibility of enforcing the restrictions set forth in this Section prior to the formation of the DRB, which, upon election as discussed in Section 3 hereof, shall assume and be responsible for enforcement. References in this Section to the DRB shall mean Developer until the DRB is elected. The architectural, maintenance and use restrictions contained in this Section shall apply to each and every Lot and all portions of the Property now or hereafter subjected to this Declaration; provided, however, that Developer shall be exempt from the provisions of this Section and shall not be obligated to obtain Board approval for any construction or change(s) in construction which Developer may elect to make at any time

Section 12. Liability of the DRB and the Board of Directors. Notwithstanding anything in this Section to the contrary, the DRB and the Board shall merely have the right, but not the duty, to exercise architectural control in a particular matter, and shall not be liable to any Homeowner, the Association or any other entity due to the exercise or non-exercise of such control, or the approval or disapproval of any improvements. Furthermore, the approval of any Plans or Specifications or any improvement shall not be deemed to be a determination or warranty that such Plans or Specifications or improvements:

- (a) are complete or do not contain defects; or
- (b) in fact meet any standards, guidelines and/or criteria of the DRB or the Board; or
- (c) are in fact architecturally or aesthetically appropriate; or
- (d) comply with any applicable governmental requirements.

Furthermore, the DRB and the Board shall not be liable for any defect or deficiency in such Plans or Specifications or improvements or any injury resulting therefrom.

Section 13. Completion of Work Remedy. When Work on any improvement is once begun, such Work thereon must be prosecuted diligently and completed within a reasonable time. If for any reason such Work is discontinued or there is no substantial progress toward completion for a continuous 60 day period, then the DRB shall have the right to notify the Homeowner of its intentions herein, enter the Lot and take such steps as might be required to correct the undesirable appearance or existence of the Dwelling, including, but not limited to, demolition and/or removal thereof, and/or pursue any of the remedies under this Declaration as the DRB determines, and charge the Homeowner for all costs associated therewith, which shall include all costs and attorneys' fees. The reason for such correction shall be solely in the discretion of the DRB and may include, but shall not be limited to, aesthetic grounds. The DRB shall have the authority, on behalf of the Board, to enter into such contracts as may be necessary to undertake the remedial and necessary actions on the Lot, including the right to enter into a contract with Developer to undertake such actions. In addition, any failure to

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undertake Work under this Section shall require the offending Homeowner to resubmit Plans and Specifications to the DRB for approval prior to undertaking any new Work on the Lot.

Article V: Membership and Voting Rights

Section 1. Membership. Every Homeowner that is subject to Assessment under Article VIII hereof shall become a member of the Association upon the recording of the instrument of conveyance. If title to a Lot is held by more than one person, each such person is a member. A Homeowner of more than one Lot is entitled to one membership for each Lot owned. Each membership is appurtenant to the Lot upon which it is based and is transferred automatically by conveyance of title to that Lot whether or not mention thereof is made in such conveyance of title. No person other than a Homeowner may be a member of the Association, and a membership in the Association may not be transferred except by the transfer of title to a Lot; provided, however, the foregoing does not prohibit the assignment of membership and voting rights by a Homeowner who is a contract seller to such Homeowner's vendee in possession.

Section 2. Voting. The Association shall have two (2) classes of voting membership: Class A and Class B. So long as there is Class B membership, "Class A Members" are all Homeowners except Developer. Upon termination of Class B membership, as provided below, Class A Members are all Homeowners, including Developer so long as such Developer is a Homeowner. Subject to the provisions of Section 3 of this Article, all members, Class A or Class B, are entitled to cast one vote for each Lot owned; however, as provided in the Articles of Incorporation, the Class B Members are entitled to elect the Association's directors until termination of Class B membership.

Section 3. Co-Ownership. If more than one person owns an interest in any Lot, all such persons are members, but there may be only one vote cast with respect to such Lot. Such vote may be exercised as the co-owners determine among themselves, but no split vote is permitted. Prior to any meeting at which a vote is to be taken, each co-owner must file the name of the voting co-owner with the secretary of the Association to be entitled to vote at such meeting, unless such co-owners have filed a general voting authority with the secretary applicable to all votes until rescinded. Notwithstanding the foregoing, if title to any Lot is held in a tenancy by the entireties, either tenant is entitled to cast the vote for such Lot unless and until the Association is notified otherwise in writing.

Section 4. Termination of Class B Membership; Transfer of Control. From time to time, Class B membership may cease and be converted to Class A membership, and members other than the Developer shall be entitled to elect a majority of the members of the Board, upon the happening of any of the following events, whichever occurs earliest:

(a) 3 months after 90% of the Lots in all portions of the Community which are or may be ultimately subject to governance by the Association have been conveyed to third party Homeowners;

(b) upon conveyance of the requisite percentage of Lots which triggers the transfer of control of the Association, as such percentage is mandated by applicable Federal Housing Authority, Federal National Mortgage Association, Government National Mortgage Association, Department of Housing and Urban Development, Federal Home Loan Mortgage Corporation or Veterans Administration provisions related to mortgage financing; or

(c) when the Developer waives in writing its right to Class B membership, which waiver shall be evidenced by the recording of a certificate to such effect in the public records of the County.

Notwithstanding the foregoing, despite an event of transfer of control having occurred, the Developer shall be entitled to elect at least one member to the Board as long as the Developer holds for sale in the ordinary course of business at least 5% of the total number of Lots which are or may ultimately be contained within the Community.

Upon termination of Class B membership, all provisions of this Declaration or of the Articles of Incorporation or By-Laws referring to Class B membership will be obsolete and without further force or effect, including any provision requiring voting by classes of membership.

Section 5. Amplification. The provisions of this Declaration are amplified by the Association's Articles of Incorporation and By-Laws, but no such amplification will alter or amend substantially any of the rights or obligations of the Homeowners set forth in this Declaration. Developer intends the provisions of this Declaration, on the one hand, and the Articles of Incorporation and By-Laws, on the other, to be interpreted, construed, applied, and enforced to avoid inconsistencies or conflicting results. If such conflict necessarily results, however, Developer intends that the provisions of this Declaration control anything in the Articles of Incorporation or By-Laws to the contrary. The terms defined in this Declaration shall have same meanings in the Articles of Incorporation and By-Laws, unless otherwise provided.

Article VI: Rights and Obligations of the Association

Section 1. Association. The Association shall govern, make rules and regulations, control and manage the Lots and Common Properties, if any, located on the Property pursuant to the terms and provisions of this Declaration and the Articles of Incorporation and By-Laws. The Association shall at all times pay the real property ad valorem taxes on any Common Properties if said taxes are billed to the Association as differentiated from being billed to the Homeowner and pay any governmental liens assessed against the Common Properties. The Association shall further have the obligation and responsibility for the hiring of certain personnel and purchasing and maintaining such equipment as may be necessary for maintenance, repair, upkeep and replacement of any Common Properties and facilities which may be located thereon, the performance of any of its maintenance obligations and performance of such other duties as are set forth herein, as follows:

(a) Notwithstanding the foregoing, the Association may, but is not obligated to, employ security guard(s) or a security guard service. If a security guard(s) or security guard service is employed by the Association, the Board of Directors shall determine, in its sole discretion, the schedule and cost of expense of security guard(s) or security guard service. Developer, while in control of the Association, does not intend to hire or pay for security guard(s) or a security guard service.

(b) The Association shall maintain the Common Properties and pay the real property ad valorem taxes and governmental liens assessed against the Common Properties and billed to the Association. Any Common Properties which are to be maintained by the Association as provided herein shall be maintained in good condition and repair. Should real property ad valorem taxes or governmental liens as to any Common Properties be assessed against the billed Lots, the Board of Directors shall have the right to determine, in its sole discretion, if the Association should pay all or any portion of said bill(s) for taxes or liens, and

such amount as they determine should be paid by the Association shall be levied as a Special Assessment pursuant to Article VIII of this Declaration.

(c) The Association shall maintain all landscaping and signage within the Common Properties, along the road right-of-way of Gateway Boulevard and Griffin Drive which abuts the Property, and in any landscaping easement which is owned or runs in favor of the Association. In addition, the Association shall maintain any entry features for the Community, including, but not limited to, walls, signage and a fountain, whether located on the Common Properties or the Lots. Such maintenance activities, may, but not necessarily will, include, without limitation, any of the following: replacement and/or replanting of existing landscaping; excavation; construction of berms; and installation, maintenance and repair of irrigation facilities.

(d) The Association shall maintain fences installed by Developer along the rear property line of each Lot. If a Homeowner decides to have Developer build a fence along the side property lines of his Lot ("Side Fences") or build his own Side Fences, the Association shall maintain these Side Fences and bill the Homeowner separately as and when determined by the Association for the costs of associated maintenance. The Side Fences must be the same style fencing as the fencing along the back property line and comply with the local zoning/building codes, and shall require written approval of the Architectural Committee as may be provided herein prior to installation.

(e) In the event the Association in the future acquires any Common Properties, the Association shall obtain, maintain and pay the premiums for the hazard insurance, flood insurance, liability insurance and fidelity bond coverage as set forth below and as consistent with state and local insurance laws, and such other types of insurance as the Board may deem advisable:

(i) Hazard insurance covering all Common Properties, except for land foundations and excavations, and all common personal property and supplies. The policy must protect against loss or damage by fire and all other hazards normally covered by the standard extended coverage endorsement and all other perils customarily covered for similar types of communities, including those covered by the standard "all risk" endorsement. The policy shall cover one hundred percent (100%) of the current replacement cost of all covered facilities and shall include the following endorsements: agreed amount and inflation guard (if available), construction code (if the local construction code requires changes to undamaged portions of buildings even when only part of the Property is destroyed by an insured hazard), and steam boiler coverage providing at least Fifty Thousand Dollars (\$50,000.00) coverage for each accident at each location.

(ii) Flood insurance covering the Common Property buildings and any other common personal property if any part of the Community is in a special flood hazard area as defined by the Federal Emergency Management Agency. The amount of flood insurance shall be for not less than the lesser of (i) 100% of the current replacement cost of all buildings and insurable property within the flood hazard area, and (ii) the maximum coverage available for the Property under the National Flood Insurance Program.

(iii) Comprehensive general liability insurance covering all Common Properties and any other areas under the Association's supervision, including public ways and commercial spaces owned by the Association. The policy must provide coverage of at least \$1,000,000.00 for bodily injury and property damage for any single occurrence. The policy must cover bodily injury and property damage resulting from the operation, maintenance or use of the Common Properties and other areas under the Association's control and any legal liability resulting from law suits related to employment contracts to which the Association is a party.

The policy must provide for at least 10 days' written notice by the insurer to the Association prior to cancellation or substantial modification.

(iv) Fidelity bond coverage for any person (including a management agent) who either handles or is responsible for funds held or administered by the Association, whether or not such persons are compensated for such services. The bond shall name the Association as an obligee and shall cover the greater of (i) the maximum funds that will be in the custody of the Association or its management agent while the bond is in force, and (ii) the sum of 3 months' General Assessments on all Lots plus the Reserve Fund. The bond shall provide for ten (10) days' written notice to the Association and all servicers of FNMA-owned mortgages in the Property prior to cancellation of or substantial modification to the bond.

(f) The Association shall care for and maintain any entryway features, including, but not limited to, fountains, walls and signage, intended for and/or identifying the Property and shall maintain any landscaping located within the Common Property, road right-of-way or any landscaping easement which is owned by or runs in favor of the Association, which maintenance activities may, but not necessarily will, include without limitation any of the following: replacement and/or replanting of existing landscaping, excavation, construction of berms, and installation, maintenance and repair of irrigation facilities.

(g) It is understood that there shall be an easement and cost-allocation agreement place upon a portion of the entry roadway on the Property, which pertains to shared use of such lands by adjacent parcels of property. The Association is specifically empowered and authorized to maintain such lands in accordance with such easement agreement and to charge such adjacent owners for their allocated share of such expenses in accordance with such agreement.

The foregoing constitutes the basic and general obligations of the Association, and the expenses pertaining to such obligations are to be paid by members of the Association as hereinafter provided, except as otherwise provided herein. It shall be the duty and responsibility of the Association, through its Board of Directors, to fix and determine from time to time the sum or sums necessary and adequate to provide for the expenses of the Association. The procedure for the determination of such assessments shall be as hereinafter set forth in this Declaration or the By-Laws or the Articles of Incorporation. The Board shall have the power and authority to levy a Special Assessment, should one become necessary, as determined by it in its sole discretion, and said Special Assessment shall be determined, assessed, levied and payable in the manner determined by the Board as hereinafter provided in this Declaration or the Articles of Incorporation or the By-Laws.

Section 2. Management Contracts and Leases of Common Property. The Association shall expressly have the power to contract for the management of the Association and/or the Common Property, if any, and to lease the recreation areas, further having the power to delegate to such contractor or lessee any or all of the powers and duties of the Association respecting the contract granted or property demised. The Association shall further have the power to employ administrative and other personnel to perform the services required for proper administration of the Association.

The undertakings and contracts authorized by the first Board of Directors shall be binding upon the Association in the same manner as though such undertakings and contracts had been authorized by the first Board of Directors duly elected by the membership of the Association; provided, however, that any management or property maintenance contract entered into by the Association prior to the election of such first Board shall be terminable by the

Association without, cause or penalty at any time after such election upon not more than 90 days' advance notice.

Section 3. Easements.

(a) Easements for installation and maintenance of utilities (including, but not limited to, those required for cable television service) and drainage facilities are reserved to the District (as may be applicable) or as shown on the Plat or as otherwise granted by Developer. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction of flow of drainage channel in the easements, or which may obstruct or retard the flow of water through drainage channel in the easements, or which are or might be prohibited by the public authority to whom said easement is given.

(b) Easements over, under, across and through each Lot and the Common Properties are hereby expressly granted to the Association for the purpose of making any repairs or performing any maintenance provided for or required by this Declaration, regardless of whether such repairs or maintenance directly benefit the Lot upon which they are performed.

(c) The easement area of each Lot and all improvements in it shall be maintained by the Homeowner of the Lot, except for those improvements for which a public authority, utility company or the Association is responsible.

Article VII: Maintenance of Lots and Improvements and Landscaping Thereon

Section 1. Maintenance of Premises. No weeds, underbrush, or other unsightly growth shall be permitted to grow or remain upon any Lot and no refuse or unsightly objects shall be allowed to be placed or suffered to remain upon any Lot. All lawns, landscaping and sprinkler systems and any property, Dwelling, improvement and appurtenance shall be kept in good, safe, clean, neat and attractive condition, and all Dwellings shall be maintained in a finished, painted and attractive condition. Upon the failure to maintain the premises as aforesaid to the satisfaction of Developer and upon the Homeowner's failure to make such correction within 15 days of giving of written notice by the Association (which written notice does not have to be given by the Association in the case of emergency, in which event, the Association may without any prior notice directly remedy the problem), the Association may enter upon such premises and make such improvements or correction as may be necessary, the costs of which shall be paid by the Homeowner or the Association may bring an action at law or in equity. Such entry by the Association or its agents shall not be a trespass and by acceptance of a deed for a Lot, such party has expressly given the Association the continuing permission to do so which permission may not be revoked. If the Homeowner fails to make payment within 15 days after request to do so by the Association, such amount shall be deemed a Specific Assessment pursuant to Article VIII hereof.

In addition, the Homeowners of certain corner Lots on Timber Ridge Drive shall be responsible, at the Homeowner's sole expense, for any landscaping features located on or adjacent to such Lot, such as, but not necessarily limited to, trees and plantings, as installed by the Developer. Such landscaping features shall not be replaced or removed without the prior written consent of the Developer and the Association.

Section 2. Maintenance of Corner Landscape Features. The Homeowners of certain corner Lots along Timber Ridge Drive shall be responsible for maintaining in good, neat and attractive condition trees and plantings ("Corner Landscape Features") installed on their Lot

corners by Developer. These Homeowners shall also be responsible for replacing such Corner Landscape Features, if necessary, at their sole cost and expense. The trees and plantings in the Corner Landscape Features shall not be removed or replaced without the prior written approval of the Developer or the Association.

Section 3. Failure to Maintain Lots. In the event a Homeowner of any Lot shall fail to maintain or repair the Lot, the improvements thereon or the landscaping thereon, if any, within 30 days' written notice of same, the Association, after approval by 2/3 vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said Lot and to repair, maintain, and restore the Lot, any improvements thereon and the landscaping thereon. The cost of same shall be added to and become part of the Assessments to which said Lot is subject, and said cost shall be a lien upon said Lot with the same force and effect and the liens on Lots for Assessments as provided in this Declaration and the Articles of Incorporation and the By-Laws.

Article VIII: Covenant for Assessments; Other Charges

Section 1. Assessments Established. Each Homeowner of any Lot, by acceptance of a deed to such Lot, whether or not it is so expressed in such deed, is deemed to covenant to pay to the Association (as may be applicable):

- (a) General Assessments, as defined in Section 2 hereof;
- (b) Special Assessments, as defined in Section 5 hereof;
- (c) Specific Assessments against any particular Lot that are established pursuant to any provision of this Declaration as provided in Section 6 hereof; and
- (d) All taxes, if any, that from time to time may be imposed upon all or any portion of the assessments established by this Article.

All of the foregoing, together with interest and all costs and expenses of collection, including reasonable attorneys' fees, are a continuing charge on the land secured by a continuing lien upon the Lot against which each Assessment is made as provided in Section 9 hereof. Each such Assessment, together with interest and all costs and expenses of collection, including reasonable attorneys' fees, also is the personal obligation of the person or persons who was or were the Homeowner(s) of such Lot when such Assessment fell due.

Section 2. Purpose of Assessments; General Assessment. The assessments levied by the Association must be used exclusively to promote the common good and welfare of the Homeowners and Residents of the Community, to operate and manage the Association and the Common Properties, if any, and to perform such duties as may be required by this Declaration and the Articles of Incorporation and By-Laws of the Association. To effectuate the following, the Association may levy an annual general assessment ("General Assessment") to provide and be used for the operation, management and all other general activities and expenses of the Association.

Section 3. Initial General Assessment. The initial General Assessment shall be \$636.60 per year and will remain in effect until a different General Assessment may be determined as provided hereinafter. Except with regard to the initial General Assessment, the amount of the General Assessment shall be fixed by the Board at least 30 days in advance of each General Assessment period, and shall be based upon an adopted budget. The General Assessment period shall coincide with the Association's fiscal year. Except for the initial

General Assessment, written notice of the amount of the General Assessment should be given to every Homeowner, but the failure to give or receive such notice, or both, shall not invalidate any otherwise valid General Assessment. The General Assessment shall be paid in equal monthly installments without interest until delinquent, and prepayable in whole at any time or times during the applicable General Assessment period without penalty or other consideration; provided, however, at the discretion of the Board, the General Assessment may be collected on a quarterly, semi-annual or annual basis rather than collected each month.

Section 4. Guarantee of Assessments by Developer. For the initial fiscal year of the Association, Developer guarantees to each Homeowner that the amount of the General Assessment to be paid by Homeowners for that year shall not exceed an amount equal to 125% of the initial General Assessment as described in Section 3 hereof. Upon commencement of the second fiscal year of the Association, the aforementioned guarantee shall continue to exist on a month-by-month basis until (a) the end of the next month following Developer's delivery of written notice to the Association stating Developer's decision to no longer guarantee the amount of the General Assessment, or (b) upon the transfer of control of the Association from Developer to the Homeowners, whichever shall occur first. During any period of existence of the aforementioned guarantee, Developer shall not be responsible for the payment of Assessments on Lots it owns but shall fund any budget deficit for that particular fiscal year. The guarantee of the General Assessment by Developer shall not preclude the levying of Special Assessments against the Homeowners to defray the costs of Association expenses not contemplated under the Association's estimated operating budget for that fiscal year. Upon termination of the aforementioned guarantee, Developer shall be responsible for the payment of Assessments only upon Lots which it owns and for which a certificate of occupancy has been issued for the applicable improvements.

Section 5. Special Assessments.

(a) The Association shall be empowered to levy a special assessment ("Special Assessment") in the manner provided in this section.

(b) In addition to the General Assessment, the Association may levy in any fiscal year a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, known expenses which exceeded, or when mature will exceed, the budget prepared and on which the General Assessment was based, or as described in Section 4 hereof. Notwithstanding the foregoing, no Special Assessment against the Homeowners shall exceed 1/12th of the total of the General Assessments levied against the Homeowners for that fiscal year without the prior approval of 75% of the total number of votes in the Association.

Section 6. Specific Assessments. Any and all accrued liquidated indebtedness of any Homeowner to the Association arising under any provision of this Declaration also may be assessed by the Association against such Homeowner's Lot after such Homeowner fails to pay it when due and such default continues for 30 days after written notice.

Section 7. Uniformity of Assessments. The General Assessment and any Special Assessment pertaining to general Common Expenses must be uniform for each Homeowner throughout the Community.

Section 8. Commencement of Assessments. The Assessments as to each Lot owned by a Homeowner other than the Developer commences on the first day of the month following the closing of the purchase of the respective Lot by the Homeowner from Developer.

Section 9. Lien for Assessment. All sums assessed against any Lot, together with interest and all costs and expenses of collection, including reasonable attorneys' fees, are secured by a lien on such Lot in favor of the Association. Such lien is subject and inferior to the lien for all sums validly secured by any First Mortgage encumbering such Lot. Except for liens for all sums validly secured by any such First Mortgage, all other lienors acquiring liens on any Lot after this Declaration is recorded are deemed to consent that such liens are inferior to the lien established by this Article, whether or not such consent is specifically set forth in the instrument creating such lien. The recordation of this Declaration constitutes constructive notice to all subsequent purchasers and/or creditors of the existence of the Association's lien and its priority. The Association from time to time may record a Notice of Lien for the purpose of further evidencing the lien established by this Article, but neither the recording of, nor failure to record, any such notice of lien will affect the existence or priority of the Association's lien.

Section 10. Certificate. Upon demand, and for a reasonable charge, the Association will furnish to any interested person a certificate signed by an officer of the Association setting forth whether the General Assessment and any Special Assessment or Specific Assessment have been paid and, if not, the unpaid balance(s).

Section 11. Remedies of the Association. Any Assessment not paid within 30 days after its due date bears interest at the rate of 18% per annum or such other rate as may be from time to time determined by the Board, provided, however, that such rate shall not exceed the maximum rate allowed by law not constituting usury. The Association may bring an action at law against the Homeowner personally obligated to pay such Assessment, or foreclose its lien against such Homeowner's Lot. No Homeowner may waive or otherwise escape liability for the Assessments. A suit to recover a money judgment for unpaid Assessments may be maintained without foreclosing, waiving, or otherwise impairing the security of the Association's lien or its priority.

Section 12. Foreclosure. The lien for sums assessed pursuant to this Article may be enforced by judicial foreclosure in the same manner in which mortgages on real property from time to time may be foreclosed in the State of Florida. In any such foreclosure, the Homeowner is required to pay all costs and expenses of foreclosure, including reasonable attorneys' fees. All such costs and expenses are secured by the lien foreclosed. The Homeowner also is required to pay to the Association any Assessments against the Lot that become due during the period of foreclosure, which Assessments also are secured by the lien foreclosed and accounted on a pro rata basis and paid as of the date the Homeowner's title is divested by foreclosure. The Association has the right and power to bid at the foreclosure or other legal sale to acquire the Lot foreclosed, or to acquire such Lot by deed or other proceeding in lieu of foreclosure, and thereafter to hold, convey, lease, rent, encumber, use, and otherwise deal with such Lot as its Homeowner for purposes of resale only. If any foreclosure sale results in a deficiency, the court having jurisdiction over the foreclosure may enter a personal judgment against the Homeowner for such deficiency.

Section 13. Subordination of Lien. Except where a notice of lien has been filed in the public records prior to the recording of a valid First Mortgage, the lien for the Assessments provided in this Article is subordinate to the lien of any such First Mortgage. Sale or transfer of any Lot does not affect the Assessment lien. The Association may give any encumbrancer of record 30 days' notice within which to cure such delinquency before instituting foreclosure proceedings against the Lot. Any encumbrancer holding a lien on a Lot may pay, but is not required to pay, any amounts secured by the lien established by this Article; upon such payment, such encumbrancer will be subrogated to all rights of the Association with respect to such lien, including priority.

Section 14. Homesteads. By acceptance of a deed to any Lot, each Homeowner is deemed to acknowledge conclusively and consent that all assessments established pursuant to this Article are for the improvement and maintenance of any homestead thereon and that the Association's lien has priority over any such homestead.

Section 15. Reserve Fund. In the event the Association in the future acquires any Common Properties, then the Association shall maintain a reserve fund to be used solely for making expenditures in connection with the Common Properties ("Reserve Fund"). The Board shall determine the appropriate level of the Reserve Fund based on a periodic review of the useful life of the improvements to the Common Properties and equipment owned by the Association, as well as periodic projections of the cost of anticipated major repairs or improvements to the Common Properties, the purchase of equipment to be used by the Association in connection with its duties hereunder, or performance of required maintenance. Each budget shall disclose that percentage of the General Assessment which shall be added to the Reserve Fund and each Homeowner shall be deemed to make a contribution to the Association equal to such percentage multiplied by each installment of the General Assessment paid by such Homeowner.

Section 16. Other Charges. Each Homeowner hereby covenants to pay any and all charges and assessments levied from time to time by the District and other applicable governmental entities.

Section 17. Additional Master Association. In the event the Association, or its members, become members of a master community association, master association, or umbrella association ("Master Association") in addition to the Master Beautification Association, or as is otherwise described herein, then and in that event the Association shall have the power to:

- (a) levy and collect on its own behalf as part of the General Assessment an amount equal to the amount levied upon the Association by the Master Association; or
- (b) collect on behalf of the Master Association as part of the General Assessment or as a separate charge an amount equal to the amount levied upon the Association's members by the Master Association.

Article IX: Miscellaneous Provisions Respecting Mortgages

The following provisions are intended for the benefit of a First Mortgagee and to the extent, if at all, that any other provisions of this Declaration conflict with the following provisions, the following provisions shall control:

Section 1. Notices of Overdue Assessments; Foreclosure. Upon request in writing to the Association identifying the name and address of the First Mortgagee or the insurer or guarantor of a recorded First Mortgage on a Lot ("Insurer or Guarantor") and the Lot number, the Association shall furnish each First Mortgagee, Insurer or Guarantor a written notice of such Lot owner's obligations under this Declaration which is not cured within 60 days. Any First Mortgagee of a Lot who comes into possession of the said Lot pursuant to the remedies provided in the Mortgage, foreclosure or a deed in lieu of foreclosure shall, to the extent permitted by law, take such property free of any claims for unpaid assessments or charges in favor of the Association against the mortgaged Lot which become due prior to (i) the date of the transfer of title, or (ii) the date on which the holder comes into possession of the Lot, whichever occurs first.

Section 2. Rights of First Mortgagees, Insurers and Guarantors. Upon request in writing, each First Mortgagee, Insurer or Guarantor shall have the right:

(a) to examine current copies of this Declaration, the By-Laws, all rules and regulations, and the books and records of the Association during normal business hours;

(b) to receive, without charge and within a reasonable time after such request, any annual audited or unaudited financial statements which are prepared and distributed by the Association to the Homeowners at the end of each of its respective fiscal years; provided, however, that in the event an audited financial statement is not available, any First Mortgagee shall be entitled to have such an audited statement prepared at its expense;

(c) to receive written notices of all meetings of the Association and to designate a representative to attend all such meetings;

(d) to receive written notice of any decision by the Homeowners to make a material amendment to this Declaration, the By-Laws or the Articles of Incorporation;

(e) to receive written notice of any lapse, cancellation or modification of an insurance policy or fidelity bond maintained by the Association; and

(f) to receive written notice of any action which would require the consent of a specified percentage of First Mortgagees.

Section 3. Distribution of Proceeds. No provision of this Declaration or the Articles of Incorporation or any similar instrument pertaining to the Property or the Lots therein shall be deemed to give a Homeowner or any other party priority over the rights of the First Mortgagees pursuant to their mortgages in the case of distribution to Homeowners of insurance proceeds or condemnation awards for losses to or a taking of the Lots and/or the Common Property, or any portion thereof or interest therein. In such event, the First Mortgagees, Insurers or Guarantors of the Lots affected shall be entitled, upon specific written request, to timely written notice of any such loss.

Section 4. Termination of the Community. Unless the First Mortgagees of the individual Lots representing at least 67% of the votes in the Association have given their prior written approval, neither the Association nor the Homeowners shall be entitled to terminate the legal status of the Community for reasons other than substantial destruction or condemnation thereof.

Section 5. Notice of Damage, Destruction or Condemnation. Upon specific written request to the Association, each First Mortgagee, Insurer or Guarantor of a Lot shall be furnished notice in writing by the Association of any damage to or destruction or taking of the Common Property if such damage or destruction or taking exceeds \$10,000.00. If damages shall occur to such Lot in excess of \$1,000.00, notice of such event shall also be given.

Section 6. Condemnation; Priority of Awards. If any Lot or portion thereof or the Common Property or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the First Mortgagee, Insurer or Guarantor of said Lot will be entitled to timely written notice, upon specific written request, of any such proceeding or proposed acquisition, and no provisions of any document will entitle the Homeowner of such Lot or other party to priority over such First Mortgagee with respect to the distribution to such Lot of the proceeds of any award or settlement.

**Article X: Damage, Destruction, Condemnation and
Restoration of Improvements**

Section 1. Damage, Destruction and Restoration. In the event the improvements forming a part of the Common Property, or any portion thereof, shall suffer damage or destruction from any cause and the proceeds of any policy or policies insuring against such loss or damage, and payable by reason thereof, plus the Reserve Fund, shall be sufficient to pay the cost of repair or restoration or reconstruction, then such repair, restoration or reconstruction shall be undertaken and the insurance proceeds and, if necessary, the Reserve Fund shall be applied by the Board or the payee of such insurance proceeds in payment thereof; provided, however, that in the event, within 180 days after said damage or destruction, the Homeowners shall elect to withdraw the Property from the provisions of this Declaration, or if the insurance proceeds and the Reserve Fund are insufficient to reconstruct the damaged or destroyed improvements to the Common Property and the Homeowners and all other parties in interest do not voluntarily make provision for reconstruction within 180 days from the date of damage or destruction, then such repair, restoration, or reconstruction shall not be undertaken. In the event such repair, restoration, or reconstruction is not undertaken, the net proceeds of insurance policies shall be divided by the Board or the payee of such insurance proceeds among all Homeowners, after first paying from the share of each Homeowner the amount of any unpaid liens on his Lot, in the order of the priority of such liens.

Section 2. Withdrawal of Property From Declaration. In the case of damage or other destruction, upon the unanimous affirmative vote of the Homeowners voting at a meeting called for that purpose, any portion of the Property affected by such damage or destruction may be withdrawn from this Declaration. The payment of just compensation, or the allocation of any insurance or other proceeds to any withdrawing or remaining Homeowners, shall be on an equitable basis. Any insurance or other proceeds available in connection with the withdrawal of any portion of the Common Property shall be allocated to the Homeowners on the basis of an equal share for each Lot. Upon the withdrawal of any Lot or portion thereof, the responsibility for the payment of assessments on such Lot or portion thereof by the Homeowner shall cease.

Section 3. Eminent Domain. In the event any portion of the Property is taken by condemnation or eminent domain proceedings, provision for withdrawal of the portion so taken from the provisions of this Declaration may be made by the Board. The allocation of any condemnation award or other proceeds to any withdrawing or remaining Homeowner shall be on an equitable basis. Any condemnation award or other proceeds available in connection with the withdrawal of any portion of the Common Property shall be allocated to the Homeowners on the basis of an equal share for each Lot. Upon the withdrawal of any Lot or portion thereof, the responsibility for the payment of assessments on such Lot or portion thereof by the Homeowner shall cease. The Association shall represent the Homeowners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for the acquisition of the Common Property or any part thereof. In the event of the total taking of the Property by eminent domain, the condemnation award available in that connection shall be divided by the Association among all Homeowners on the basis of an equal share for each Lot, after first paying from the share of each Homeowner the amount of any unpaid liens on his Lot, in the order of the priority of such liens.

Article XI: Termination of the Community

At a meeting called for such purpose and attended by all Homeowners, the Homeowners, by affirmative vote of 100% of the Homeowners, may elect to terminate the legal status of the Community and sell the Common Property as a whole. Within 10 days after the date of the meeting at which such sale was approved, the Board shall give written notice of such

action to all First Mortgagees, Insurers and Guarantors entitled to notice under Article IX hereof. Such action shall be binding upon all Homeowners, and it shall thereupon become the duty of every Homeowner to execute and deliver such instruments and to perform all acts in manner and form as may be necessary to effect such termination and sale. The Association shall represent the Homeowners in any negotiations, settlements and agreements in connection with termination of the Community and sale of the Common Property, and any proceeds obtained therefrom shall be first used to pay all expenses and outstanding obligations of the Association and the remainder, if any, shall be divided among all Homeowners on the basis of an equal share for each Lot.

Article XII: Operation

The provisions of this Declaration are self-executing and will run with the land and be binding upon all persons having any right, title, or interest therein, or any part, their respective heirs, successors, and assigns.

Article XIII: General Provisions

Section 1. **Enforcement.** Unless expressly provided otherwise, the Association, or any Homeowner, has the right to enforce, by any appropriate proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens, charges, rules, and regulations now or hereafter imposed by, or pursuant to, the provisions of this Declaration. If the Association or any person entitled to enforce any of the provisions of this Declaration is the prevailing party in any litigation involving this Declaration or any rule or regulation, such party may recover from the losing party all costs and expenses incurred, including reasonable attorneys' fees for all trial and appellate proceedings, if any. If the Association is the losing party against any Homeowner, such costs and expenses, including reasonable attorneys' fees, payable to the prevailing party and those incurred by the Association itself, may be assessed against such Homeowner's Lot, as provided in Article VIII hereof. Failure by the Association or by any Homeowner to enforce any covenant, restriction, rule, or regulation will not constitute a waiver of the right to do so at any time.

Section 2. **Amendment.** Subject to the provisions of Article IX of this Declaration and as may be otherwise provided herein, Developer may amend this Declaration by an instrument executed with the formalities of a deed without the approval or joinder of any other party at any time prior to the date on which Developer shall have conveyed 90% of the Lots on the Property to third parties. Subject to the provisions of Article IX of this Declaration and as may be otherwise provided herein, commencing on the date that Developer shall have conveyed 90% of the Lots on the Property, this Declaration may be amended, rescinded, or terminated: (i) on or before January 1, 2010, by an instrument executed by the Association with the formalities from time to time required of a deed and signed by 90% of all Homeowners; and, (ii) thereafter by an instrument so executed by the Association and signed by not less than 70% of all Homeowners. No amendment is effective until recorded, and the Association's proper execution will entitle it to public record, notwithstanding the informal execution by the requisite percentage of Homeowners. Notwithstanding the foregoing, no instrument of amendment, rescission or termination shall be effective while there are Class B memberships unless 100% of the Class B members shall approve and join in such instrument. For purposes of this Section, a Lot shall be considered conveyed when the deed is duly recorded. Further, notwithstanding the foregoing, any amendment to this Declaration that will affect the stormwater system, including water management portions of the Common Properties, if any, will be subject to the prior approval of the South Florida Water Management District.

DB BK 03411 PG 4859

Section 3. Special Amendment. Anything herein to the contrary notwithstanding, and subject to the requirement of First Mortgagee approval set forth in Article IX hereof where applicable, Developer reserves the right and power to record a special amendment ("Special Amendment") to this Declaration, at any time and from time to time, which amends this Declaration and any provision therein: (i) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Administration, the Veteran's Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities; (ii) to induce any of such agencies or entities to make, purchase, sell, insure, guarantee or otherwise deal with first mortgages covering Lots; (iii) to correct clerical or typographical errors in this Declaration; (iv) to bring this Declaration into compliance with applicable laws, ordinances or governmental regulations; or (v) to minimize any federal or state income tax liability of the Association. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Developer to make or consent to a Special Amendment on behalf of each Homeowner and the Association. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power of the Developer to make, execute and record Special Amendments. The right and power of Developer to make Special Amendments hereunder shall terminate on December 31, 2005, or on the date of the conveyance of all Lots in the Community by the Developer to third parties, whichever occurs last.

Section 4. Cable Television. Developer has entered into a contract with Gateway/Jones Communications, Ltd., a cable television provider, for the purposes of providing quality cable television services at a reasonable cost to the Lots. Developer hereby gives notice that one of Developer's affiliated companies has an ownership interest in Gateway/Jones Communications, Inc., and that Developer or one of its affiliates may become the sole supplier of cable services to the Community.

Section 5. Additions to the Property.

(a) Additional land may be made subject to all the terms hereof and brought within the jurisdiction and control of the Association in the manner specified in this Section, provided such is done within 40 years from the date this Declaration is recorded. Notwithstanding the foregoing, however, under no circumstances shall Developer be required to make such additions, and until such time as such additions are made to the Property in the manner hereinafter set forth, no other real property owned by Developer or any other person or party whomsoever, other than within the Property, shall in any way be affected by or become subject to this Declaration. All additional land which, pursuant to this Section, is brought within the jurisdiction and control of the Association and made subject to the Declaration shall thereupon and thereafter be included within the term "Property" as used in this Declaration. Notwithstanding anything contained in this Section, Developer neither commits to, nor warrants or represents, that any such additional land will be made subject to and brought within the jurisdiction and control of the Association.

(b) Procedure for Making Additions to the Property. Additions to the Property may be made by the following procedure:

(i) Developer shall have the right from time to time, in its discretion and without need for consent or approval by either the Association, any Homeowner, Resident or other Person to make additional land owned by Developer subject to the scheme of this

Declaration and to bring such land within the jurisdiction and control of the Association; provided, however, in the event any portion of such additional land is encumbered by one or more mortgages, Developer must obtain the consent and approval of each holder of such mortgage(s).

(ii) The addition shall be accomplished by Developer filing of record in the public records a supplement to this Declaration with respect to the additional land extending the terms of the covenants and restrictions of this Declaration to such land as specifically and legally described. Such supplement need only be executed by Developer and shall be accompanied by the consent(s) and joinder(s) of any holder(s) of mortgage(s) on such additional land. No joinder or consent of the Association, any Homeowner, Resident or other Person shall be required. Such supplement may contain such additional provisions and/or modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added land or permitted uses thereof. In no event, however, shall such additional provisions and/or modifications revoke, modify, or add to the covenants and restrictions established by this Declaration as such affect the land described in the original Exhibit A or added by a previous supplement.

(iii) Nothing contained in this Section shall obligate Developer to make additions to the Property.

Section 6. Rights of Mortgagees. Any First Mortgagee has the following rights:

(a) Inspection. During normal business hours, and upon reasonable notice and in a reasonable manner, to inspect the books, records, and papers of the Association.

(b) Copies. Upon payment of any reasonable, uniform charge that the Association may impose to defray its costs, to receive copies of the Association's books, records, or papers, certified upon request.

(c) Financial Statements. Upon written request to the secretary of the Association, to receive copies of the annual financial statements of the Association; provided, however, the Association may make a reasonable charge to defray its costs incurred in providing such copies.

(d) Meetings. To designate a representative to attend all meetings of the membership of the Association, who is entitled to a reasonable opportunity to be heard in connection with any business brought before such meeting but in no event entitled to vote thereon.

By written notice to the secretary of the Association, and upon payment to the Association of any reasonable annual fee that the Association from time to time may establish for the purpose of defraying its costs, any First Mortgagee also is entitled to receive any notice that it required to be given to the Class A members of this Association under any provision of this Declaration or the Articles of Incorporation or By-Laws.

Section 7. Severability. Invalidation of any particular provision of this Declaration by judgment or court order will not affect any other provision, all of which shall remain in full force and effect; provided, however, any court of competent jurisdiction is hereby empowered, to the extent practicable, to reform any otherwise invalid provision contained in this Declaration when necessary to avoid a finding of invalidity while effectuating Developer's intent of providing a comprehensive plan for the use, development, sale, and beneficial enjoyment of the Community.

Section 8. Joinder. Should title to any Lot of the Community have been conveyed by Developer prior to the recording of this Declaration, such Homeowners of Lots by their signature to a Joinder shall be deemed to have joined with the Homeowner in the recording of this Declaration and shall have subordinated their right, title and interest in the Lot to the terms hereof and declare that their property shall be subject to this Declaration as fully as if title had been taken by them subsequent to the recording hereof.

Section 9. Covenant Running with the Property. Except as otherwise provided herein, the covenants, conditions and restrictions of this Declaration shall run with and be binding upon the Property, and shall remain in force and be enforced by the Board of Directors and the Homeowners, their heirs, successors and assigns, for a term of 30 years after the date this Declaration is recorded in the public records of the County, and shall be automatically renewed for successive periods of 10 years, unless the Homeowners, upon the affirmative vote of the holders of 70% of the voting interests decide within 6 months of such renewal date, not to renew these covenants, conditions and restrictions, and a certificate executed by the president or the vice-president and secretary of the Association certifying to such vote is recorded in the public records of the County.

Section 10. Deletions from the Property. Developer shall have the right and power to withdraw any portion of the Property owned by Developer from the scope of this Declaration. Any such withdrawal shall be accomplished by Developer filing of record in the public records a supplement to this Declaration with respect to the withdrawn land deleting the terms of the covenants and restrictions of this Declaration to such land as specifically and legally described. Such supplement need only be executed by Developer and shall be accompanied by the consent(s) and joinder(s) of any holder(s) of mortgage(s) on such withdrawn land. No joinder or consent of the Association, any Homeowner, Resident or other Person shall be required.

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OR BK 03411 PG 4862

IN WITNESS WHEREOF, Developer has duly executed this instrument on this 12 day of MARCH, 2001.

WITNESSES:

BAY COLONY-GATEWAY, INC., a Delaware corporation

Melanie Scire
Name: Melanie Scire

By: Vivien N. Hastings
Vivien N. Hastings
Senior Vice President

Carin A. Rupp
Name: Carin A. Rupp

(SEAL)

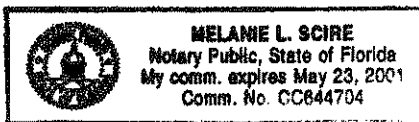
STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 12 day of MARCH, 2001, by Vivien N. Hastings, as Senior Vice President of BAY COLONY-GATEWAY, INC., a Delaware corporation, on behalf of the corporation. She either is personally known to me or has produced _____ as identification.

My Commission Expires:

(AFFIX NOTARY SEAL)

Melanie Scire
(Signature)
Name: Melanie Scire
(Legibly Printed)
Notary Public, State of Florida



(Commission Number, if any)

DR BK 03411 PG 4863

**EXHIBIT "A" TO DECLARATION OF NEIGHBORHOOD COVENANTS
FOR TIMBER RIDGE**

Legal Description of the Property

DESCRIPTION: A PARCEL OF LAND LYING IN SECTIONS 7, 8 AND 18, OF TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING, AT THE SOUTHEAST CORNER OF SECTION 7, TOWNSHIP 45 SOUTH, RANGE 26 EAST; THENCE RUN ALONG THE SOUTHERLY LINE OF SAID SECTION 7, S.89°42'31"W., 612.76 FEET TO THE POINT OF BEGINNING; THENCE S.54°00'05"W., 1781.79 FEET TO A POINT OF INTERSECTION WITH THE EASTERLY BOUNDARY OF TRACT "B" OF GATEWAY PHASE 10, AS RECORDED IN PLAT BOOK 50 PAGES 99-102 OF THE PUBLIC RECORDS OF LEE COUNTY FLORIDA; THENCE ALONG SAID EASTERLY BOUNDARY FOR THE FOLLOWING THREE COURSES: 1) N.00°54'11"W., 96.49 FEET; THENCE 2) N.54°05'57"W., 372.91 FEET; THENCE 3) N.47°27'38"W., 25.00 FEET TO A POINT ON A CURVE SAID POINT BEING ON THE EASTERLY RIGHT-OF-WAY LINE OF GATEWAY BOULEVARD AS SHOWN ON THE PLAT OF GATEWAY PHASE 1, AS RECORDED IN PLAT BOOK 40 PAGES 31-37, INCLUSIVE, OF THE PUBLIC RECORDS OF LEE COUNTY FLORIDA; THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE OF GATEWAY BOULEVARD FOR THE FOLLOWING TWO COURSES: 1) NORTHERLY, 1136.57 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 1375.00 FEET AND A CENTRAL ANGLE OF 47°21'37" (CHORD BEARING N.18°51'33"E., 1104.48 FEET) TO A POINT OF TANGENCY; 2) N.04°49'15"W., 126.37 FEET; THENCE ALONG THE SOUTHERLY AND EASTERLY BOUNDARY OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2742, PAGES 1170, OF THE PUBLIC RECORDS OF LEE COUNTY FLORIDA, FOR THE FOLLOWING TWO COURSES: 1) N.85°10'45"E., 241.34 FEET; 2) N.04°49'15"W., 240.60 FEET TO A POINT OF INTERSECTION WITH THE SOUTHERLY BOUNDARY OF GRIFFIN DRIVE AS SHOWN ON THE PLAT OF GATEWAY PHASE 6, AS RECORDED IN PLAT BOOK 44, PAGES 59-66, INCLUSIVE, IN THE PUBLIC RECORDS OF LEE COUNTY FLORIDA; THENCE ALONG SAID SOUTHERLY BOUNDARY FOR THE FOLLOWING FIVE COURSES: 1) S.89°04'09"E., 209.42 FEET TO A POINT OF CURVATURE; 2) EASTERLY, 799.82 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 4875.00 FEET AND A CENTRAL ANGLE OF 09°24'01" (CHORD BEARING N.86°13'51"E., 798.93 FEET) TO A POINT OF REVERSE CURVATURE; 3) EASTERLY, 194.30 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 255.00 FEET AND A CENTRAL ANGLE OF 43°39'27" (CHORD BEARING S.76°38'27"E., 189.64 FEET) TO A POINT OF TANGENCY; 4) S.54°48'43"E., 87.22 FEET TO A POINT ON A CURVE; 5) SOUTHERLY, 44.23 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 30.00 FEET AND A CENTRAL ANGLE OF 84°28'20" (CHORD BEARING S.12°34'34"E., 40.33 FEET); THENCE S.60°20'24"E., 120.00 FEET TO A POINT ON A CURVE ON THE SOUTHERLY BOUNDARY OF COMMERCE LAKES DRIVE AS SHOWN ON SAID PLAT OF GATEWAY PHASE 6; THENCE ALONG SAID SOUTHERLY BOUNDARY FOR THE FOLLOWING THREE COURSES: 1) NORTHEASTERLY, 657.59 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 940.00 FEET AND A CENTRAL ANGLE OF 40°04'55" (CHORD BEARING N.49°42'04"E., 644.26 FEET); 2) N.69°44'32"E., 111.43 FEET TO A POINT OF CURVATURE; 3) EASTERLY, 192.50 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 4860.00 FEET AND A CENTRAL ANGLE OF 02°16'10" (CHORD BEARING N.68°36'27"E., 192.49 FEET); THENCE S.35°59'55"E., 327.54 FEET; THENCE S.54°00'05"W., 1416.75 FEET TO THE POINT OF BEGINNING.

CONTAINING 54.291 ACRES, MORE OR LESS.

ALSO KNOWN AS

TIMBER RIDGE, according to map or plat thereof recorded in Plat Book 66, Page 98, public records of Lee County, Florida.

**EXHIBIT "B" TO DECLARATION OF NEIGHBORHOOD COVENANTS
FOR TIMBER RIDGE**

Articles of Incorporation

State of Florida



Department of State

I certify from the records of this office that TIMBER RIDGE NEIGHBORHOOD ASSOCIATION, INC. is a corporation organized under the laws of the State of Florida, filed on April 30, 2001.

The document number of this corporation is N01000003029.

I further certify that said corporation has paid all fees due this office through December 31, 2001, and its status is active.

I further certify that said corporation has not filed Articles of Dissolution.

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
Thirtieth day of April, 2001



CR2EO22 (1-99)

Katherine Harris

Katherine Harris
Secretary of State

AFFIDAVIT ALLOWING ASSUMPTION
OF DISSOLVED CORPORATION'S NAME

FILED
01 APR 30 PM 3:12
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

State of Florida
County of Lee

Before me, the undersigned authority duly authorized to take oaths and administer affirmations, personally appeared Kenneth W. Hayden, who being known to me and being first duly sworn deposed and said:

1. That he/she is the President of Timber Ridge Neighborhood Association, Inc., a dissolved Florida not for profit corporation.

2. That Timber Ridge Neighborhood Association, Inc. a dissolved Florida not for profit corporation, gives its permission for Timber Ridge Neighborhood Association, Inc., a new Florida not for profit corporation, to use the name Timber Ridge Neighborhood Association, Inc.

[Signature]
Name: Kenneth W. Hayden
President of Timber Ridge Neighborhood Association, Inc. a dissolved Florida not for profit corporation

SWORN TO AND SUBSCRIBED before me this 28th day of March, 2001, by Kenneth W. Hayden who is personally known to me or who has produced _____ as identification.

[Signature]
Signature of Notary Public
Robin Huffman
Printed Name of Notary
NOTARY PUBLIC, STATE OF FLORIDA



(SEAL)

Commission Number
Commission Expiration Date

OR BK 03411 PG 4867

ARTICLES OF INCORPORATION
OF
TIMBER RIDGE NEIGHBORHOOD ASSOCIATION, INC.
(A Corporation Not for Profit)

FILED
01 APR 30 PM 3:12
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

THE UNDERSIGNED INCORPORATOR to these Articles of Incorporation hereby proposes the incorporation under Chapters 617 and 720, Florida Statutes, of a corporation not for profit, and hereby makes, subscribes, acknowledges and files with the Secretary of State of the State of Florida, Articles of Incorporation, and hereby certifies as follows:

ARTICLE I: NAME AND LOCATION

The name of this corporation shall be TIMBER RIDGE NEIGHBORHOOD ASSOCIATION, INC. (hereinafter referred to as the "Association"), and its initial office for the transaction of its affairs shall be 24301 Walden Center Drive, Suite 300, Bonita Springs, Florida 34134, and the initial Registered Agent at that address is Vivien N. Hastings.

ARTICLE II: PURPOSES

This Association does not contemplate pecuniary gain or profit to the members thereof, and no distribution of income to its members, directors or officers shall be made, except that nothing herein shall prevent the Association from compensating persons who may be members, directors or officers in exchange for services actually rendered to, or costs actually incurred for the benefit of, the Association in furtherance of one or more of its purposes. The general purpose of this Association is to promote the common interests of the property owners in Timber Ridge (hereinafter referred to as the "Community"), and the specific purpose is to perform the functions of the Association contemplated in the Declaration of Neighborhood Covenants for the Community recorded in the public records of Lee County, Florida (hereinafter referred to as the "Declaration"), as the same may in the future be amended, which purposes shall include but not be limited to:

- (a) Exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in the Declaration;
- (b) Fix, levy, collect and enforce payment, by any lawful means, all charges or assessments pursuant to the terms of the Declaration;
- (c) To pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association;
- (d) Maintain, repair and replace Common Properties as contemplated by the Declaration; and
- (e) Have and exercise any and all other powers, rights and privileges of a not-for-profit corporation organized under the law of the State of Florida.

ARTICLE III: MEMBERSHIP AND VOTING RIGHTS

A. Eligibility. Every person, whether an individual, corporation or other entity, who is the record owner of a Lot that is subject to assessment pursuant to the Declaration shall become a member of the Association upon the recording of the instrument of conveyance. If title to a Lot is held by more than one person, each such person shall be a member. A Homeowner of more than one Lot is entitled to membership for each Lot owned. No person other than a Homeowner may be a

ARTICLE IV: TERM OF EXISTENCE

The Corporation shall have perpetual existence. In the event the Corporation is dissolved, the Corporation shall ensure that the maintenance of the surface water management system, is delegated, transferred or assigned to a similar not-for-profit corporation.

ARTICLE V: INCORPORATOR

The name and residence of the Incorporator to these Articles of Incorporation is the following:

<u>NAME</u>	<u>ADDRESS</u>
Robert S. Freedman	Carlton Fields, P.A. One Harbour Place 777 S. Harbour Island Boulevard Tampa, Florida 33602-5799

ARTICLE VI: MANAGEMENT

The affairs of the Corporation shall be managed by its Board of Directors, which shall consist of not less than three (3) nor more than seven (7) individuals, the precise number to be fixed in the By-Laws or by the Board of Directors of the Association from time to time. Directors shall be elected for one year terms by the members at the annual members' meeting, to be held as scheduled by the Board of Directors in the last quarter of each fiscal year in the manner prescribed in the By-Laws of the Association, and shall hold office until their respective successors are duly elected and qualified. The Board shall elect a President, a Vice President, and a Secretary-Treasurer of the Association, and such other officers as may, in the opinion of the Board, from time to time be necessary to adequately administer the affairs of the Association. Such officers are to hold office at the pleasure of the Board or until their successors are duly elected and qualified. Officers may be Directors. Officers and Directors must be members of the Association except with respect to those who are elected by the Class B members. Any individual may hold two (2) or more corporate offices, except that the offices of President and Secretary-Treasurer may not be held by the same person. The officers shall have such duties as may be specified by the Board or the By-Laws of the Association. Vacancies occurring on the Board and among the officers shall be filled in the manner prescribed by the By-Laws of the Association.

Notwithstanding the foregoing, the Class B members shall have the right to elect all Directors as long as there shall be Class B membership, except that such Class B members, in their sole discretion, may voluntarily consent to the election of one director by the Class A members after fifty percent (50%) of the Lots in the Community have been conveyed to Class A members.

ARTICLE VII: INITIAL OFFICERS

The names of the initial officers who are to serve until their successors are elected under the provisions of these Articles of Incorporation and the By-Laws are the following:

<u>Title</u>	<u>Identity</u>
President	Milt Flinn
Vice President	Robert M. Gislason
Secretary-Treasurer	Susan C. Fisher

ARTICLE VIII: INITIAL BOARD OF DIRECTORS

The number of persons constituting the initial Board of Directors of the Association shall be three (3) and the names and addresses of the members of such first Board of Directors, who shall hold office until their respective successors are elected pursuant to the provisions of these Articles of Incorporation and the By-Laws, are the following:

Milt Flinn	24301 Walden Center Drive, Suite 300 Bonita Springs, Florida 34134
Robert M. Gislason	24301 Walden Center Drive, Suite 300 Bonita Springs, Florida 34134
Susan C. Fisher	24301 Walden Center Drive, Suite 300 Bonita Springs, Florida 34134

ARTICLE IX: BY-LAWS

The By-Laws of the Association shall be adopted by the initial Board of Directors, as constituted under Article VIII above, at the organizational meeting of the Board. Thereafter the By-Laws may be altered, amended, or rescinded by the affirmative vote of two-thirds () of the Board of Directors, and after notice to the members, by the majority vote of Class A members, and the unanimous vote of the Class B members, present at any regular or special meeting of the membership.

However, no amendment to the By-Laws shall be valid which affects any of the rights and privileges provided to the Developer without the written consent of the Developer as long as Developer shall own any Lots in the Community.

ARTICLE X: AMENDMENTS

Amendments to these Articles of Incorporation shall be made in the following manner:

(a) The Board of Directors shall adopt a resolution setting forth a proposed amendment and, if members have been admitted, directing that it be submitted to a vote at a meeting of members, which may be either the annual or a special meeting. If no members have been admitted, the amendment shall be adopted by a vote of the majority of directors and the provisions for adoption by members shall not apply.

(b) Written notice setting forth the proposed amendment or a summary of the changes to be affected thereby shall be given to each member of record entitled to vote thereon within the time and in the manner provided by Florida Statutes for the giving of notice of meetings of members. If the meeting is an annual meeting, the proposed amendment or such summary may be included in the notice of such annual meeting.

(c) At such meeting, a vote of the members entitled to vote thereon shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving both the affirmative vote of a majority of the votes of members of each class entitled to vote thereon as a class and the affirmative vote of a majority of the votes of all members entitled to vote thereon.

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

ARTICLE XI: REGISTERED OFFICE AND AGENT

Pursuant to Section 48.091 and Section 607.0501, Florida Statutes, the name and address of the Initial Registered Agent for service of process upon the Association is:

Vivien N. Hastings
24301 Walden Center Drive, Suite 300
Bonita Springs, Florida 34134

The above address is also the address of the registered office of the Association.


Robert S. Freedman, Incorporator

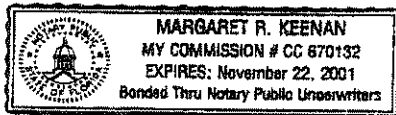
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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me this 24th day of April, 2001, by ROBERT S. FREEDMAN, being known to me to be the person who executed the foregoing Articles of Incorporation, and who acknowledged to me that he executed the same as his free act and deed for the uses and purposes therein set forth. He is personally known to me.

My Commission Expires:

(AFFIX NOTARY SEAL)



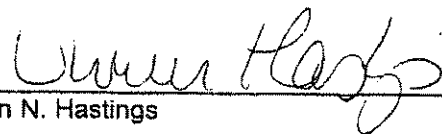

(Signature)

Name _____
(Legibly Printed)
Notary Public, State of Florida

(Serial Number, if any)

ACCEPTANCE OF DESIGNATION AS REGISTERED AGENT

The undersigned, having been named as registered agent and to accept service of process for TIMBER RIDGE NEIGHBORHOOD ASSOCIATION, INC., hereby accepts the appointment as registered agent and agrees to act in such capacity. The undersigned further agrees to comply with the provisions of all statutes relating to the proper and complete performance of his duties and is familiar with and accepts the obligations of his position as registered agent.


Vivien N. Hastings

**EXHIBIT "C" TO DECLARATION OF NEIGHBORHOOD COVENANTS
FOR TIMBER RIDGE**

By-Laws

**BY-LAWS
OF
TIMBER RIDGE NEIGHBORHOOD ASSOCIATION, INC.
(A Corporation Not for Profit)**

**ARTICLE I
Name and Location**

The name of the corporation is TIMBER RIDGE NEIGHBORHOOD ASSOCIATION, INC. (hereinafter referred to as the "Association"), and its initial office for the transaction of its affairs shall be 24301 Walden Center Drive, Suite 300, Bonita Springs, Florida 34134. Meetings of members and directors may be held at such places within the State of Florida as may be designated by the Board of Directors (hereinafter referred to as the "Board").

**ARTICLE II
Definitions**

Unless the context expressly requires otherwise, the terms used herein shall have the meanings set forth in the Declaration of Neighborhood Covenants for Timber Ridge ("Declaration").

**ARTICLE III
Meeting of Members**

Section 1. **Annual Meetings.** All annual and special meetings of the Association shall be held in Lee County, Florida, or at such other place as may be permitted by law and from time to time as fixed by the Board and designated in the notices of meetings.

Section 2. **Notice of Annual Meetings.** Annual meetings of the members of the Association shall be held in the fourth quarter of each fiscal year. Notice of the meeting, which shall include an agenda, shall be hand-delivered or sent by first class mail to each member listed in the membership book of the Association at the address shown therein ("Member of Record") at least fourteen (14) and no more than sixty (60) days prior thereto. The secretary of the Association shall obtain and retain a written receipt of delivery or the post office certificate of mailing as proof that the notice was delivered or mailed.

Section 3. **Special Meetings.** Special meetings of the members, for any purpose or purposes, whether or not specifically required by these By-Laws, the Articles of Incorporation, or the Declaration may be called by the president, secretary, a majority of the Board, or by the members having one-tenth (1/10) of the votes of the Class A membership.

Section 4. **Notice of Special Meetings.** No business shall be transacted at any special meeting except as stated in the notice thereof. Notice of all special meetings shall be given by the secretary to Members of Record, or if the secretary shall fail to do so, by the president or Board, not less than thirty (30) nor more than sixty (60) days prior to the date thereof, stating the date, time, and place of the meeting and the purpose or purposes thereof. Notices deposited in the United States mail, postage prepaid within the prescribed time or, in lieu of mailing, delivered by hand to the members shall suffice. The Secretary shall obtain and retain a written receipt of delivery of the post office certificate of mailing as proof that the notice was delivered or mailed.

Section 5. **Quorum.** Members present in person or represented by proxy, entitled to cast at least one-third (1/3) of the votes of the membership of the Association, shall constitute a quorum.

Section 6. **Action Taken at Meeting.** When a quorum is present at any meeting, a majority of the votes duly cast by the members present at the meeting or represented by written proxy shall decide any question brought before the meeting, unless the question is one upon which by express provision of law, the Declaration, the Articles of Incorporation or these By-Laws, a different vote is required, in which case the express provision shall govern and control. If any meeting of members cannot be organized because a quorum is not present, the meeting may be adjourned by a majority of the members present in person, until a quorum is present

Section 7. **Order of Business.** The order of business at all meetings shall be as prescribed in the agenda prepared by the Board and submitted to the Members of Record with the notice of each meeting.

Section 8. **Action Without Meeting.** Any action which may be taken by the membership pursuant to a duly called meeting, may be taken without a meeting provided that: a proposal of action to be taken by the members is mailed to every member of the Association together with a request for approval or disapproval; and, the members responding to the proposal ("**Responding Members**") hold at least one-third (1/3) of the votes of all members of the Association. A proposed action may be approved by a majority of the votes attributable to the Responding Members unless the proposed action is one which by express provision of law, the Declaration, the Articles of Incorporation or these By-Laws requires a different vote, in which case the express provision as it pertains to voting percentages shall govern and control.

Section 9. **Voting.** The Association has two classes of voting membership: Class A and Class B. So long as there is Class B membership, Class A members are all Homeowners except Developer. The Class B members shall be the Developer. Upon termination of Class B membership, as provided by the Declaration, Class A members are all Homeowners, including the Developer so long as such Developer is a Homeowner. Subject to the provisions of the following paragraph all members, Class A or Class B, are entitled to cast one vote for each Lot owned; but, as provided in the Association's Articles of Incorporation, the Class B members are entitled to elect the Association's directors until termination of Class B membership.

If more than one person owns an interest in any Lot, all such persons are members, but there may be only one vote cast with respect to such Lot. Such vote may be exercised as the co-owners determine among themselves, but no split vote is permitted. Prior to any meeting at which a vote is to be taken, each co-owner must file the name of the voting co-owner with the secretary of the Association to be entitled to vote at such meeting, unless such co-owners have filed a general voting authority with the Secretary applicable to all votes until rescinded. Notwithstanding the foregoing, if title to any Lot is held in a tenancy by the entireties, either tenant is entitled to cast the vote for such Lot unless and until the Association is notified otherwise in writing.

Section 10. **Presiding Officers.** At each meeting of the members, the president, or in his absence the vice president, shall preside and the secretary, or in his absence the assistant secretary, shall be the secretary for the meeting.

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ARTICLE IV
Directors

Section 1. **Board of Directors.** Until transfer of control of the Association from the Developer to the non-Developer owners, the affairs of the Association shall be managed by a Board of three (3) directors. A director must be a member except that the directors elected by the Class B members need not be members and may be the officers and/or employees of the Developer. There shall be at all times a minimum of three (3) directors.

Section 2. **Election of Directors.**

(a) Election of directors shall be held at the annual members' meeting.

(b) The election of directors to be elected by the Class A members shall be by ballot (unless dispensed by the unanimous vote consent of those members eligible to vote in person or proxy) and shall be determined by a plurality of the Class A votes cast. There shall be no cumulative voting.

(c) Except as to vacancies provided by removal of directors by members, all vacancies in the Board occurring between annual meetings of members, including vacancies created by increasing the size of the Board, shall be filled by the vote of a majority of the remaining directors.

(d) Any directors elected by Class A members may be removed by concurrence of two-thirds (2/3) of the votes of the Class A members at a special meeting of the members called for that purpose. The vacancy in the Board so created shall be filled by the members of the Association at the same meeting.

(e) Notwithstanding the foregoing, the Board shall be elected solely by Class B members as long as there are Class B members, with the exception that in the sole discretion of the Class B members, one director may be elected by the Class A members after fifty percent (50%) of the Lots have been collectively conveyed to Class A members.

Section 3. **Term of Office.** Unless otherwise provided herein, the term of each director's service shall be one year and until his successor is duly elected and qualified or until he is removed in the manner provided elsewhere herein.

Section 4. **Composition of the Board of Directors.** In accordance with the Articles of Incorporation, the Board appointed and named in said Articles of Incorporation (and their successors appointed by the Developer) shall serve at least until Class A members are entitled to elect one or more of the directors.

At the meeting of the members at which transfer of control of the Association to the non-Developer members occurs, a simple majority of directors shall be elected for a term of office to end at the second subsequent annual meeting of the members of the Association, and the remaining directors shall be elected for a term of office to end at the subsequent annual meeting of the members of the Association. Following the initial election of non-Developer members, subsequent elections to the Board shall be for a two (2) year term of office, unless otherwise provided herein. All officers of a corporation owning a Lot shall be deemed to be members of the Association so as to qualify each to become a director hereof.

Section 5. **Annual Meetings.** The annual meeting of the Board may be held at such time and place as shall be determined by the directors, except that such annual directors' meeting shall be held as soon as practicable following the annual members' meeting. If held at any time other than immediately following the annual members' meeting, there shall be three (3) days notice given by the President personally or by mail, telephone or telegraph, which notice shall state the time and place of the meeting.

Section 6. **Special Meetings.** Special meetings of the directors may be called by the president and must be called by the secretary at the written request of two-thirds (2/3) of the directors. Not less than three (3) days' notice of the meeting shall be given personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting.

Section 7. **Waiver of Notice.** Any director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice. Attendance at a meeting shall constitute a waiver of notice.

Section 8. **Quorum and Voting.** A quorum at directors' meetings shall consist of a majority of the entire Board. The acts approved by a majority of directors shall constitute the acts of the Board except when approval by a greater number of directors is required by the Declaration, the Articles of Incorporation, these By-Laws, or the laws of the State of Florida.

Section 9. **Adjourned Meetings.** If at any meeting of the Board there shall be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting any business that might have been transacted at the meeting as originally called may be transacted without further notice.

Section 10. **Joinder in Meeting by Approval of Minutes.** The joinder of a director in the action of a meeting by signing and concurring in the minutes of that meeting shall constitute the presence of such director for the purpose of determining a quorum.

Section 11. **Presiding Officer and Secretary for Meetings.** The presiding officer of the directors' meetings shall be the chairman of the Board if such an officer has been elected; and if none, the president shall preside. In the absence of the presiding officer, the directors present shall designate one of their number to preside. The secretary of the Association shall be the secretary for meetings of the directors, unless absent, in which case the directors shall designate one of their members to act as secretary for the meeting.

Section 12. **Compensation.** No director shall receive compensation for any service he may render to the Association as director. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties, and this provision shall not preclude a person who is also a director to receive compensation in exchange for other services rendered to or on behalf of the Association in a capacity other than director.

Section 13. **Committees.** The Board may from time to time appoint such committees and delegate such duties and powers thereto as it may deem advisable.

Section 14. **Attendance by Telephone.** Any member or members of the Board shall be deemed present and voting at a meeting of such Board if said member or members participate in the meeting by means of a conference telephone or similar communications equipment or device enabling all persons participating in the meeting to hear each other.

Section 15. **Action Without Meeting.** Any action required or permitted to be taken at any meeting may be taken without a meeting if written consent to the action signed by all the members of the Board is filed with the minutes of the proceedings of the Board.

Section 16. **Powers.** The Board shall have the powers set forth in the Declaration and the Florida Not-For-Profit Corporation Act, including but not limited to the power to:

(a) adopt and promulgate rules and regulations governing the Community or contemplated by the Declaration, and to establish penalties for the infraction thereof (a rule shall be deemed promulgated when a copy thereof is furnished to each member in person or mailed to each such member at the address on the records of the Association);

(b) suspend the voting rights and other rights of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of promulgated rules and regulations;

(c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration, including the establishment of the assessments provided for in the Declaration; and

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

Section 17. **Duties.** It shall be the duty of the Board to:

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

(b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

(c) as more fully provided in the Declaration, to:

(1) fix the amount of the assessment against each Lot;

(2) exercise the duties of the Board as set forth in the Declaration and enforce the restrictions and covenants contained therein; and

(3) take appropriate and timely action against members whose assessments are in default;

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

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(e) cause all officers or employees having fiscal responsibilities to be bonded, if such bonding may be deemed appropriate; and

(f) perform such other acts as may be required of a board of directors under the Florida Not-For-Profit Corporation Act.

ARTICLE V **Officers**

Section 1. **First Officers.** In accordance with the Articles of Incorporation, the first officers of the Association named and appointed in such Articles of Incorporation shall serve until their qualified successors are elected by the Board.

Section 2. **Executive Officers.** The executive officers of the Association shall be a president, who shall be a director, a vice president, who shall be a director, a treasurer-secretary and other officers as shall be elected by the Board. Except as provided in Section 1 of this Article, such officers shall be elected annually by the Board. Officers need not be Lot owners and the officers and employees of the Developer may be officers of the Association. The Board from time to time may elect such assistant or other officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association. Each officer shall serve until a qualified successor is elected by the Board. The Board, by a two-thirds (2/3) affirmative vote, from time to time may remove an officer with or without cause and fill such vacancy so created.

Section 3. **President.** The president shall be the chief executive officer of the Association. He shall have all of the powers and duties that are usually vested in the office of president of an association, including but not limited to the power to appoint committees from among the members from time to time, as he in his discretion may determine appropriate, to assist in the conduct of the affairs of the Association.

Section 4. **Vice-President.** The vice-president, in the absence or disability of the president, shall exercise the powers and perform the duties of the president. He also shall assist the president generally and exercise such other powers and perform such other duties as shall be prescribed by the directors.

Section 5. **Secretary.** The secretary shall keep the minutes of all proceedings of the directors and members. He shall attend to the giving and serving of all notices to the members and directors and others that are required by law. He shall have custody of the seal of the Association and affix it to any instruments requiring a seal when duly signed. He shall keep the records of the Association including the membership book, except those of the treasurer unless the secretary is also the treasurer of the Association. The secretary shall perform all other duties incident to the office of secretary of a corporation and as may be required by the Board of Directors or the President. Any assistant secretary elected shall perform the duties of the secretary when the secretary is absent.

Section 6. **Treasurer.** The treasurer shall have custody of all property of the Association including funds, securities and evidences of indebtedness. He shall keep the books of the Association in accordance with good accounting practices, and he shall perform all other duties usually incident to the office of treasurer.

Section 7. **Compensation.** No officer shall receive any compensation by reason of his office; provided, however, that nothing herein shall preclude the Board from employing an officer as an employee of the Association or preclude the contracting with an officer for management services.

ARTICLE VI **Fiscal Management**

Section 1. **Depositories.** All funds of the Association shall be deposited in the name of the Corporation in such bank, banks or other financial institutions as the Board may from time to time designate, and shall be drawn out on checks, drafts or other orders signed on behalf of the Association by such person or persons as the Board may from time to time designate.

Section 2. **Contracts, Etc.** Except as otherwise specifically provided by these By-Laws, all contracts, agreements, deeds, bonds, mortgages and other obligations and the instruments shall be signed on behalf of the Association by the president or by such other officer, officers, agent or agents as the Board may from time to time by resolution provide.

Section 3. **Budget.** The Board shall adopt a budget for each fiscal year that shall include the estimated funds required to defray the Association expenses and to provide and maintain funds for the appropriate accounts according to good accounting practices. Such budget shall be adopted prior to, and a copy shall be distributed at, the annual members' meeting next preceding the fiscal year for which the budget shall apply.

Section 4. **Assessments.** As more fully provided in the Declaration, each member is obligated to pay to the Association certain assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum, or such other rate as may be, from time to time, established by the Board; provided, however, that such rate shall not exceed the maximum rate allowed by the law not constituting usury. The Association may bring an action at law against the Homeowner personally obligated to pay the same or foreclose the lien against the property, and interest, costs and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. No Homeowner may waive or otherwise escape liability for the assessments provided for herein.

Section 5. **General Assessment.** The Board shall adopt the General Assessment as provided for in the Declaration. The initial level of the General Assessment until changed by action of the Board shall be \$636.00 per Lot per year. The adoption of these By-Laws is action of the Board to fix and establish the General Assessment at \$636.00 per Lot per year.

Section 6. **Special Assessments.** As contemplated by the Declaration, special assessments may be adopted by the Association to meet expenses which exceed the budget adopted by the Board of Directors. Such special assessments shall be adopted and levied upon approval of a majority of the votes cast by the members present at a special meeting called for that purpose.

Section 7. **Budget Review by Members.** If the Board-adopted General Assessment against the Lots in any fiscal year exceeds one hundred twenty-five percent

(125%) of the General Assessments for the preceding fiscal year, upon written application of ten percent (10%) of the Homeowners to the Board, a special meeting of the membership shall be called within thirty (30) days upon not less than ten (10) days' written notice to each Homeowner. At the special meeting, Homeowners shall consider and may enact a budget and General Assessment. The adoption of the budget and General Assessment by the Homeowners shall require a majority of the votes cast at such meeting.

If no new budget and General Assessment are adopted by the Homeowners at such special meeting, then the budget and General Assessment adopted by the Board under Sections 3 and 5 of this Article VI shall stand and constitute the valid budget and General Assessment of the Association.

Section 8. **Financial Report.** The Treasurer of the Association shall report the financial status of the Association to the members sixty (60) days following the end of the fiscal year.

ARTICLE VII **Amendments**

These By-Laws may be altered, amended, or rescinded by the affirmative vote of two-thirds (2/3) of the Board, and after notice to the members, by the majority vote of Class A members, and the unanimous vote of the Class B members, present at any regular or special meeting of the membership.

Notwithstanding anything herein to the contrary, no amendment to the By-Laws shall be valid which affects any of the rights and privileges provided to the Developer without the written consent of the Developer as long as Developer shall own any Lots in the Community.

ARTICLE VIII **Miscellaneous**

Section 1. The fiscal year of the Association shall be the calendar year.

Section 2. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles of Incorporation shall control. In the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.