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**DECLARATION OF**  
**COVENANTS, RESTRICTIONS AND EASEMENTS**  
**OF**  
**THE SHORES AT WATERLEFE**

ACCEPTED IN OPEN SESSION 3/27/01  
BOARD OF COUNTY COMMISSIONERS, MANATEE COUNTY

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3/27/01

**DECLARATION OF  
COVENANTS, RESTRICTIONS AND EASEMENTS  
OF  
THE SHORES AT WATERLEFE**

THIS DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR **THE SHORES AT WATERLEFE** is made this \_\_\_\_ day of \_\_\_\_\_, 2000, by **FLORIDA COAST DEVELOPMENT CORP.**, a Florida corporation (the "Declarant").

**BACKGROUND**

A. The Declarant is the owner of that certain property known as **The Shores at Waterlefe** located in Manatee County, Florida, described in Exhibit "A" (the "Properties") attached to this Declaration.

B. The Properties are located within Waterlefe as such term is defined in the Declaration of Covenants, Restrictions and Easements of Waterlefe Golf and River Club Community recorded in Official Records Book 1623, Page 4140, of the Public Records of Manatee County, (the "Master Declaration").

C. Pursuant to the terms of the Master Declaration, the Declarant intends that a "Neighborhood" (as such term is defined in the Master Declaration) be created upon the Properties.

D. In order to facilitate the objectives described in this Declaration, the Declarant has formed a Florida not for profit corporation called **The Shores at Waterlefe Homeowners Association, Inc.**, a Florida not-for-profit corporation (the "Association"), which shall be responsible for the administration, enforcement and performance of certain duties under this Declaration.

**TERMS**

Declarant declares that the Properties, together with such additions to the Properties as are hereafter made pursuant to Article 2 of this Declaration, shall be held, transferred, sold, conveyed, leased, mortgaged, used, occupied and improved subject to the easements, covenants, conditions, restrictions, servitudes, charges and liens created or provided for by this Declaration.

1. **DEFINITIONS.** The following words when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

1.1 "Articles" means the Articles of Incorporation of the Association which have been filed in the office of the Secretary of the State of Florida (a copy of which is attached to this Declaration as Exhibit "B"), as amended from time to time.

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- 1.2 "Assessment" means any of the types of Assessments defined below in this Section:
- 1.2.1 "Common Assessment" means a charge against each Owner and the Owner's Lot, representing a portion of the General Common Expenses.
- 1.2.2 "Lot Landscaping Assessment" means a charge against each Owner and the Owner's Lot and/or Unit representing a portion of the Lot Landscaping Expenses, if any, which may be assessed against any Owner.
- 1.2.3 "Special Assessment" means a charge against one or more Owners and their Lots and/or Units equal to the expenses incurred by the Association in connection with the enforcement of this Declaration against such Owner(s) for such Owner(s)' failure to duly perform their obligations under this Declaration.
- 1.3 "Association" means The Shores at Waterlefe Homeowners Association, Inc., a Florida not-for-profit corporation.
- 1.4 "Board" or "Board of Directors" means the Board of Directors of the Association.
- 1.5 "By-Laws" means the By-Laws of the Association adopted by the Board (a copy of which is set forth as Exhibit "C" hereto), as amended from time to time.
- 1.6 "Community Completion Date" means the date upon which all Lots and Units, as ultimately planned and as fully developed have been conveyed by Declarant to Owners.
- 1.7 "County" means Manatee County, Florida.
- 1.8 "Covenants" means the easements, covenants, conditions, restrictions, servitudes, charges and liens created in, or provided for, by this Declaration.
- 1.9 "Declarant" means Florida Coast Development Corp., a Florida corporation, its successors and those assignees to which the Declarant may assign all or a portion of its rights hereunder. In the event of a partial assignment, the assignee shall not be deemed the Declarant, but may exercise such rights (including the right to make further assignments if granted by the Declarant) of the Declarant specifically assigned to it. Any such assignment may be made on a nonexclusive basis.
- 1.10 "Declarant's Permittees" means the Declarant's officers, directors, partners, joint venturers, affiliates (and the officers, directors and employees of any such partner, joint venturer or affiliate), employees, beneficiaries, agents, independent contractors



(including both general contractors and subcontractors), suppliers, visitors, licensees and invitees and those of any affiliate of the Declarant. Initially, Declarant's Permittees shall include Walt Eppard, Rene Eppard and David S. McNabb.

- 1.11 "Declaration" and "this Declaration" means (and, except as otherwise provided in Section 1.36, "herein", "hereto", "hereof", "hereunder" and words of similar import shall refer to) this instrument as from time to time amended, together with any Supplemental Declarations thereto.
- 1.12 "Design Review Board" or "DRB" means the committee created pursuant to Article 10 hereof.
- 1.13 "General Common Expenses" means the actual and estimated expenses of ownership, maintenance, management, operation, insurance, repair and replacement of the General Common Property (including unpaid Common Assessments, Special Assessments, and including those expenses not paid by the Owner responsible for payment); the costs of any and all commonly metered utilities, cable or master television charges, if any; the costs of any security systems and expense benefitting the Members or the Properties; the costs of any commonly metered or bulk rate cable or master television and telecommunication charges for Units; the costs of management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and other employees; the costs of fire, casualty and liability insurance, workmen's compensation insurance, and other insurance covering or connected with the General Common Property or the Association; costs of bonding the members of the Board, officers of the Association and the Management Company; costs of errors and omissions liability insurance for officers of the Association, members of the Board, members of the DRB and members of any committees appointed by the Board; taxes paid by the Association; indemnification (to the extent permitted by law) made or given to any member of the Board, officers of the Association, members of the DRB and members of committees appointed by the Board, amounts paid by the Association for the discharge of any lien or encumbrance levied against the General Common Property or any portion thereof; and the costs of any other item or items so designated by, or in accordance with other expenses incurred by, the Association for any reason whatsoever in connection with the General Common Property, the Association or for the benefit of the Owners.
- 1.14 "General Common Property" means the portions of the Properties and together with the Improvements, landscaping and personal property thereon designed and intended for the common, non-exclusive use of the Owners and declared to be General Common Property in this Declaration or any Supplemental Declaration. The General Common Property shall, when and if constructed, include, without

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limitation, the roads (Tract 202 on the Plat), part of the bridge (also known as "conspan") within Tract 202 on the Plat, landscaped areas, security gates and street lighting located within The Shores and the landscaped easement areas located immediately outside of The Shores along the entrance to The Shores. The General Common Property shall not include the other part of the bridge (also known as the "conspan") outside of The Shores as that part of the bridge is included within the General Common Property of the Master Association.

- 1.15 "Improvement" means any structure or artificially created condition or appurtenance located on the Properties, including, but not limited to, any Unit, Unit additions and structural alterations, walkway, sprinkler pipe, road, driveway, parking area, fence, screening wall, retaining wall, stairway, deck, landscaping, hedge, tree, planting, shrub, windbreak, pole, swimming pool, pool deck, tennis court, sign, screen enclosure, sewer, drain, disposal system, grading, paving, or exterior air-conditioning or water softener fixture or equipment.
- 1.16 "Initial Declaration" means (and, when following an Article, Section, page or Exhibit designation, the word "hereto" shall refer to) this Declaration as initially recorded in the County's Public Records, as same may be re-recorded to correct any recording or clerical error.
- 1.17 "Lot" means any lot or tract located within the Properties and identified as such on the Plat as it may be amended from time-to-time or as designated by the Declarant in a recorded instrument, which contains or is intended to contain a Unit. The Declarant may declare property to be a "Lot" subject to these Covenants, on a plat, replat or by any other recorded instrument to be and any other property hereafter declared as a Lot. To the extent Declarant is not the Owner of the property designated as Lots and made subject to this Declaration, then the designation shall be made by Declarant as joined by the Owner thereof.
- 1.18 "Lot Landscaping" means that portion, if any, of the grass, shrubs, trees and other landscaping materials and irrigation lines and facilities on each Lot maintained by the Association.
- 1.19 "Lot Landscaping Expenses" means the actual and estimated expenses, if any, of maintenance, repair and replacement of the Lot Landscaping (including unpaid Lot Landscaping Assessments and those expenses not paid by the Owner responsible for payment). Lot Landscaping Expenses may include reasonable reserves for capital repairs and replacements, all as may be determined from time to time by the Board of Directors in accordance with this Declaration.
- 1.20 "Management Company" means the person(s), firm(s), corporation(s) or other entities, if any, employed by the Association as its agent(s) to assist in fulfilling or carrying out certain duties, powers or functions of the Association.

- 1.21 "Master Association" means Waterlefe Master Property Owners' Association, Inc., a Florida not for profit corporation, which is the entity responsible for the administration, enforcement and performance of certain duties under the Master Declaration.
- 1.22 "Master Declarant" means Bay Colony-Gateway, Inc., a Delaware corporation, its successors and those assignees to which Master Declarant may assign all or a portion of its rights under the Master Declaration.
- 1.23 "Master Declaration" means the Declaration of Covenants, Restrictions and Easements of Waterlefe Golf and River Club Community as recorded in Official Records Book 1623, Page 4140 of the Public Records of the County, as amended from time to time.
- 1.24 "Master Plan" means the graphic representation of the proposed plan for development of The Shores at Waterlefe, as approved by the County (to the extent such approval is required), as amended from time to time by the Declarant. The Declarant reserves the right to alter or modify the Master Plan, as it deems desirable in its sole discretion.
- 1.25 "Member" means each Owner who, by virtue of his ownership of a Lot or Unit, is a Member of the Association as hereinafter provided.
- 1.26 "Mortgage" means any mortgage on a Unit or Lot or a portion of the Properties. "First Mortgage" means any recorded Mortgage with first priority or seniority over other Mortgages.
- 1.27 "Mortgagee" means any holder of a Mortgage. "First Mortgagee" means any holder of a First Mortgage.
- 1.28 "Owner" means the person or persons or legal entity or entities holding fee simple title of record to any Lot or Unit situated within the Properties, including the Declarant and sellers under executory contracts of sale, but excluding those having an interest merely as security for the performance of an obligation and purchasers under executory contracts of sale.
- 1.29 "Parcel" means any portion of the Properties owned by the Declarant which is now or been zoned or shown on an applicable site plan as being intended for residential use (single family, townhouse or otherwise) which has not been declared to be a Lot, Unit, General Common Property.

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- 1.30 "Participating Builder" means any person or entity in the home building business who is currently approved in writing by the Declarant as a "Participating Builder" pursuant to the Declarant's Participating Builder Agreement.
- 1.31 "Plat" means the Plat of Waterlefe Golf and River Club, Unit 3, as such plat is recorded in the Public Records of the County, and any amendments or replats thereof.
- 1.32 "Properties" means the property described in Exhibit "A" to this Declaration (including all Improvements thereon), plus whatever portions of The Shores or adjacent or nearby properties (together with all Improvements thereon) that are declared to be Properties in any Supplemental Declaration, less whatever portions of The Shores (together with all Improvements thereon) that are declared to be withdrawn from the provision of this Declaration in any Supplemental Declaration.
- 1.33 "The Shores" or "Community" means the planned unit neighborhood named The Shores at Waterlefe, located within Waterlefe Golf and River Club Community in the County.
- 1.34 "Supplemental Declaration" means any instrument recorded by the Declarant in the County's Public Records for the purpose of: adding additional properties to the Properties; declaring certain properties to be Lots or Units, withdrawing properties from the Properties; or otherwise amending or supplementing this Declaration.
- 1.35 "Unit" means a condominium unit, townhouse, villa, single-family dwelling, home or other permanent dwelling unit.
- 1.36 "Interpretation and Flexibility" In the event of any ambiguity or question as to whether any person, entity, property or Improvement falls within any of the definitions set forth in this Article 1, the determination made by Declarant in such regard (as evidenced by a recorded Supplemental Declaration stating same) shall be binding and conclusive. Moreover, Declarant may also, by way of Supplemental Declaration, alter, amend, limit or prohibit the application of any portion or all of this Declaration as to any specified portion(s) of the Properties in order to reflect any unique characteristics thereof or as the Declarant deem appropriate, helpful or necessary in connection with the development and operation of any portion of the Properties.

**2. GENERAL PLAN OF DEVELOPMENT; PROPERTY SUBJECT TO THIS DECLARATION; ADDITIONS THERETO.**

- 2.1 General Plan. Declarant reserves the right to amend all or part of the development plan from time to time.

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- 2.2 Legal Description. The initial real property which shall be held, transferred, sold, conveyed and occupied subject to this Declaration is more particularly described in Exhibit "A" attached hereto and shall initially constitute the "Properties."
- 2.3 Supplements. The Declarant may designate as "Properties" other or any adjacent or nearby property (including the Improvements thereon) by recording Supplemental Declarations (which shall not require the consent of then existing Owners or the Association, but shall require the consent of the Master Declarant). The Declarant may from time to time declare all or part of such additional property (including the Improvements thereon) to be Lots or Units. The Declarant reserves the right to plat or replat (subject to the consent of the Master Declarant), replan, and revise plans for any portion of the properties owned by the Declarant. If Declarant is not the owner of the land to be added to the Properties as of the date the applicable Supplemental Declaration is to be made, then the owner(s) of such land shall join in such Supplemental Declaration. Once so added, such land shall be deemed a part of the Properties for all purposes of this Declaration, except as modified pursuant to Section 1.36, if at all. Nothing in this Declaration shall, however, obligate Declarant to add to the initial portion of The Shores designated as the Properties or to develop future property (adjacent or otherwise), nor to prohibit Declarant (or the applicable Declarant-affiliated Owner) from changing the development plans with respect to such property.

All Owners by acceptance of their deeds to or other conveyances of their Lots, or Units, and all lessees by acceptance of their leasehold interest, thereby and hereby automatically consent to any such change, addition, deletion, plat, replat, replan, or plan thereafter made by the Declarant (or the applicable Declarant-affiliated Owner thereof) and shall evidence such consent in writing if requested to do so by the Declarant at any time (provided, however, that the refusal to give such written consent shall not obviate the general effect of this provision). By acceptance of their deeds and leasehold interests all Owners and lessees hereby grant to the Declarant an irrevocable power of attorney, accompanied by an interest to act on their behalf and stead and to take all such reasonable actions and to execute and all such documents on their behalf as may be reasonably required by the Declarant to accomplish or carry out such changes, additions, deletions, plats, replats, or plans; provided, however that such power is deemed not to be granted to the extent that any such change, addition, deletion, plat, replat or plans materially: (i) adversely impair physical access to such Owner's Lot or Unit or (ii) has the effect of prohibiting a previously permitted material use of the Lot or Unit.

Any such Supplemental Declaration may submit the Properties added by it to such additions to and modifications of the provisions contained in the Declaration as may be necessary or convenient in the Declarant's judgment to reflect or adapt to any changes in circumstances or difference in the character of the added properties.

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- 2.4 Withdrawal. Declarant reserves the right to amend this Declaration unilaterally at any time, without the consent of any Owner, for the purpose of removing any portion of the Properties then owned by the Declarant or its affiliates or the Association from the provisions of this Declaration to the extent included originally in error or as a result of any change whatsoever in the plans for The Shores desired to be effected by Declarant; provided, however, that such withdrawal is not unequivocally and materially contrary to the overall, uniform scheme of development for the then-remaining portions of The Shores. Any withdrawal of land not owned by Declarant shall not be effective without the written consent or joinder of the then-owner(s) of such land being withdrawn.
- 2.5 Disclaimer of Implication. Only the Properties described in Exhibit "A" hereto are submitted to the Covenants by the Initial Declaration.

3. **GENERAL COMMON PROPERTY.**

- 3.1 General Common Property Areas. Subject to the provisions as otherwise set forth in this Declaration, certain portions of the Properties are designated as General Common Property and are designed and intended for the common, non-exclusive use of the Declarant, the Owners of all Lots and/or Units that may from time to time constitute part of the Properties and all of the respective tenants, guests and invitees of the Declarant and the Owners, all as provided and regulated in this Declaration or otherwise by the Master Declaration. General Common Property (when designated as such by the Declarant) shall include, without limitation, private roadways, bridge (also referred to as the "conspan"), entrance features, signs erected by Declarant to identify The Shores, the security gates, landscape areas, specified landscape easement areas located outside The Shores along the entry, structures, sidewalks and street lights, but excluding any public utility installations thereon and any other property of the Declarant not intended to be made General Common Property. General Common Property may also include any special design or landscaping features lying within rights of way as long as such items abut or are in near proximity to The Shores even if they lie outside of the boundaries of The Shores (such as landscaping and irrigation in median strips or along the entry road or bridge) or not otherwise owned or controlled by the Association; and such similar items or property which may hereafter be added by a deed conveying same to the Association or on a plat relating to such General Common Property or in a Supplemental Declaration. The Declarant shall have the right, subject to obtaining all required governmental approvals and permits, to construct on the General Common Property such facilities as Declarant deems appropriate. The timing and phasing of all such construction shall be solely within the discretion of Declarant.

This Declaration is subject to any other easement currently of record which affects any of the Properties. Any easement in favor of the Association and its benefits and burdens shall be deemed General Common Property. Additionally, the Declarant

reserves on behalf of the Association the right to accept any easements in favor of the Association over, under, across or through any portion of The Shores or real property which abuts or is adjacent to The Shores, and such easements shall be deemed General Common Property to the extent of such easements created. Any real property shall be considered adjacent to or abutting The Shores even though a street, lake or canal may lie between any of such properties. Certain portions of the Properties shall not be deemed General Common Property to the extent that they are specifically made common areas/elements of the Master Association; or are designated as Limited Common Property of the Master Association or Club Facilities of the Master Association.

The Declarant may specifically identify (by recorded legal description, signage, physical boundaries, site plans or other means) the General Common Property of the Properties, but such identification shall not be required in order for a portion of the Properties to be General Common Property hereunder.

Without limiting the generality of Section 1.33, in the event that the Declarant determines that a particular portion of The Shores is or is not General Common Property hereunder, such determination shall be binding and conclusive. It is specifically contemplated that the General Common Property may change from time to time in connection with changes in development plans and other factors not known. Accordingly, references in this Declaration to the General Common Property shall be deemed to refer to same as they may exist as of the relevant time. NOTWITHSTANDING ANYTHING CONTAINED IN THIS DECLARATION TO THE CONTRARY, THE DEFINITION OF "GENERAL COMMON PROPERTY" AS SET FORTH IN THIS DECLARATION IS FOR DESCRIPTION PURPOSES ONLY AND SHALL IN NO WAY BIND OR OBLIGATE THE DECLARANT TO CONSTRUCT OR SUPPLY ANY SUCH ITEM AS SET FORTH IN SUCH DESCRIPTION. FURTHER, NO PARTY SHALL BE ENTITLED TO RELY UPON SUCH DESCRIPTION AS A REPRESENTATION OR WARRANTY AS TO THE EXTENT OF THE COMMON PROPERTY TO BE OWNED, LEASED BY OR DEDICATED TO ASSOCIATION, EXCEPT AFTER CONSTRUCTION AND DECISION OR CONVEYANCE OF ANY SUCH ITEM.

- 3.2 Ownership. The Association shall be responsible for the maintenance, insurance and operation of all General Common Property (whether or not conveyed or to be conveyed to the Association), except as expressly provided herein. It is intended that all real estate taxes assessed against that portion of the General Common Property owned or to be owned by the Association shall be (or have been, because the purchase prices of the Lots and Units have already taken into account their proportionate shares of values of the General Common Property) proportionally assessed against and payable as part of the taxes of the Lots and Units within the Properties. However, in the event that, notwithstanding the foregoing, any such taxes are assessed directly against the General Common Property, the Association

shall be responsible for the payment (subject to protest or appeal before or after payment) of the same, including taxes on any improvements and any personal property thereon accruing from and after the earlier of the (a) date the Declaration or Supplemental Declaration designating the portion of the Properties as General Common Property was recorded, or (b) date of the use of such property as General Common Property. Such taxes shall be prorated between Declarant (or the then Declarant-affiliated Owner thereof) and the Association as of the date of such recordation.

Declarant and its affiliates shall have the right from time to time to enter upon the General Common Property and other portions of the Properties (including, without limitation, Lots and Units) for the purpose of the installation, construction, reconstruction, repair, replacement, operation, expansion or alteration of any improvements or facilities on the General Common Property or elsewhere in the Properties that the Declarant and its affiliates, as appropriate, elect to effect. The Declarant and its affiliates shall have the right to use the General Common Property for sales, promotions, displays and signs during the period of construction, development and sale of any of the land owned by Declarant and its affiliates within The Shores.

3.3 Exclusions. It is intended that the Master Association, or its designee, shall be responsible for the maintenance, operation, repair and replacement of the private roadways and the bridge ("conspan"), even though the Master Association, or its designee, may not own such General Common Property. Therefore, while the Association reserves its ownership rights and the right, but not the obligation, to maintain, operate, repair or replace the private roadways and the bridge, the Association intends to rely on the Master Association, or its designee, to be responsible for such maintenance, operation, repair or replacement of the private roadways and the bridge.

3.4 Prior to Conveyance. Prior to the conveyance, identification and/or dedication of the General Common Property to the Association, any portion of the General Common Property owned by Declarant shall be operated, maintained, and administered at the sole cost of the Association for all purposes and uses reasonably intended, as Declarant in its sole discretion deems appropriate. During such period, Declarant shall own, operate, and administer the General Common Property without interference from any Owner or Mortgagee or any other person or entity whatsoever. Owners shall have no right in or to any General Common Property referred to in this Declaration unless and until same are actually constructed, completed, and conveyed to, leased by, dedicated to, and/or maintained by the Association. The Declarant has no obligation or responsibility to construct or supply any such General Common Property of the Association, and no party shall be entitled to rely upon any statement contained in this Declaration as a representation or warranty as to the extent of the General Common Property to



be owned, leased by, or dedicated to the Association. The Declarant, so long as it controls the Association, further specifically retains the right to add to, delete from, modify any of the General Common Property.

3.5 Conveyance. After the date upon which all Lots and Units as ultimately planned and as fully developed have been conveyed by the Declarant and the Declarant's Permittees to Owners, or earlier as determined by Declarant in its sole discretion, all or portions of the General Common Property may be dedicated by Plats, created in the form of easements, or conveyed by written instrument recorded in the Public Records of the County, or by Quitclaim Deed from Declarant to the Association. The dedication, creation by easement, or conveyance shall be subject to easements, restrictions, reservations, conditions, limitations, and declarations of record, real estate taxes for the year of conveyance, zoning, land use regulations and survey matters. The Association shall be deemed to have assumed and agreed to pay all continuing obligations and service and similar contracts relating to the ownership, operation, maintenance, and administration of the conveyed portions of General Common Property and other obligations relating to the General Common Property imposed herein. The Association shall, and does hereby, indemnify and hold Declarant harmless on account thereof. The Association, by its joinder in this Declaration, hereby accepts such dedication(s) or conveyance(s) without setoff, condition, or qualification of any nature. The General Common Property, personal property and equipment thereon and appurtenances thereto shall be dedicated or conveyed in "as is, where is" condition WITHOUT REPRESENTATION OR WARRANTY, EXPRESSED OR IMPLIED, IN FACT OR BY LAW, AS TO THE CONDITION, FITNESS OR MERCHANTABILITY OF THE GENERAL COMMON PROPERTY BEING CONVEYED.

3.6 Operation After Conveyance. After the conveyance or dedication of any portion of the General Common Property to the Association, the portion of the General Common Property so dedicated shall be owned, operated and administered by the Association for the use and benefit of the owners of all property interests in the Properties, including, but not limited to, the Association, the Declarant, Owners and any Mortgagee. Subject to the Association's right to grant easements, and other interests as provided herein, the Association may not convey, abandon, alienate, encumber, or transfer all or a portion of the General Common Property to a third party without (i) if prior to the turnover date, the approval of (a) a majority of the Board; and (b) the consent of Declarant, or (ii) from and after the turnover date, approval of (a) seventy-five percent (75%) of the Board; and (b) seventy-five percent (75%) of all of the votes in the Association.

3.7 Assumption of Risk. Without limiting any other provision herein, each person using any portion of the General Common Property accepts and assumes all risk and responsibility for liability, injury, or damage connected with use of such General Common Property. The person also expressly indemnifies and agrees to hold

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harmless Declarant, the Association, and all employees, directors, representatives, officers, agents, and partners of the foregoing, from any and all damages, whether direct or consequential, arising from or related to the person's use of the General Common Property, including for attorneys' fees, paraprofessional fees and costs at trial and upon appeal.

3.8 Owner's Obligation to Indemnify. Each Owner agrees to indemnify and hold harmless the Declarant, the Association, their officers, partners, agents, employees, affiliates, directors and attorneys (collectively, "Indemnified Parties") against all actions, injury, claims, loss, liability, damages, costs and expenses (including attorneys' fees and costs) of any kind or nature whatsoever (collectively, "Losses") incurred by or asserted against any of the Indemnified Parties from and after the date hereof, whether direct, indirect, or consequential, as a result of or in any way related to the General Common Property, including, without limitation, the interpretation of this Declaration and/or exhibits attached hereto and/or from any act or omission of the Declarant, the Association or of any of the Indemnified Parties. Should any Owner bring suit against the Declarant, the Association, or any of the Indemnified Parties for any claim or matter and fail to obtain judgment therein against such Indemnified Parties, such Owner shall be liable to such parties for all Losses, costs and expenses incurred by the Indemnified Parties in the defense of such suit, including attorney's fees and paraprofessional fees at trial and upon appeal.

3.9 Negligence. The expense of any maintenance, repair or construction of any portion of the General Common Property necessitated by the negligent or willful acts of an Owner, or persons utilizing the General Common Property necessitated by the negligent or willful acts of an Owner, or persons utilizing the General Common Property, through or under Owner, shall be borne solely by such Owner and the Lot and/or Unit owned by that Owner shall be subject to a Special Assessment for that expense. By way of example, and not of limitation, an Owner shall be responsible for the removal of all landscaping and structures placed within easements of General Common Property without the prior written approval of the Association.

#### 4. MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

4.1 Membership. Every person or entity who is an Owner shall be a Member of the Association. Notwithstanding the foregoing, any such person or entity who merely holds record ownership as security for the performance of an obligation shall not be a Member of the Association.

4.2 Voting Rights. The Association shall have two (2) classes of Voting Members:

4.2.1 Class A. Class A Members shall be all Owners, with the exception of the Declarant and Declarant's Permittees. A Class A Member shall be entitled

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to one (1) vote for each Lot or Unit owned. When more than one person holds an interest in any Lot or Unit, all such persons shall be Members. The vote for such Lot or Unit shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot or Unit. All votes shall be exercised or cast in the manner provided by the Declaration and By-Laws. Any person or entity owning more than one Unit shall be entitled to cast the aggregate number of votes attributable to all Units owned.

4.2.2 Class B. The Class B Member(s) shall be the Declarant and Declarant's Permittees. The Class B Member(s) shall be entitled to that number of votes which equals three times the total number of votes to which the Class A members are entitled, plus one (1). The Class B membership shall cease and be converted to Class A membership on the first to occur of the following events:

- 4.2.2.1 On December 31, 2015, or
- 4.2.2.2 Three months after ninety (90%) percent of the Lots and Units in all phases of The Shores that will ultimately be operated by the Association have been conveyed to Class A Members;
- 4.2.2.3 When the Declarant and Declarant's Permittees record a notice in the Public Records of the County expressly terminating their Class B membership; or
- 4.2.2.4 Such other percentage of the parcels has been conveyed to members, or such other date or event has occurred, as is set forth in the "governing documents" (as such term is defined in Section 617.301 of the Florida Statutes (1998) in order to comply with the requirements of any governmentally chartered entity with regard to the mortgage financing of parcels.

From and after the happening of these events, whichever occurs first, the Class B Members shall be deemed Class A Members entitled to one (1) vote for each Lot or Unit in which they hold the interest required for membership.

4.3 Selection of Voting Members. The person entitled to act as the Voting Member for an Owner shall be determined in accordance with the By-Laws.

4.4 General Matters. When reference is made in this Declaration, or in the Articles or By-Laws or other relevant documents to a majority or specific percentage of Owners, Members (or Voting Members), such reference shall be deemed to be reference to a majority or specific percentage of the votes of Members represented by their respective Voting Members at a duly constituted meeting thereof (i.e., one

for which proper notice has been given and at which a quorum exists) and not of the Members themselves or of their Lots and Units. To the extent lawful, the foregoing shall apply to, without limitation, the establishment of a quorum at any applicable meeting.

**5. CERTAIN EASEMENTS**

5.1 Risks Related to Club Facilities. By acceptance of a deed to any Lot or Unit or other real property within the Properties, each Owner other than the Declarant acknowledges and agrees that owning property in a community containing golf club facilities has benefits as well as detriments. The detriments include, but are not limited to: (i) the risk of damage to property or injury to persons and animals from golf balls which are hit onto the Owner's Lot; (ii) the entry by golfers onto an Owner's Lot or other portion of the Properties to retrieve golf balls; (iii) overspray in connection with the watering and maintenance of the golf club facilities; (iv) noise from golf club facilities maintenance and operation equipment (including, without limitation, mowers, compressors, wood chippers, chainsaws, blowers, mulchers, tractors, utility vehicles, sprinklers and pumps, all of which may be operated at all times of the day and night or continuously); (v) odors arising from irrigation and fertilization of the golf club facilities; and (vi) disturbances and loss of privacy resulting from maintenance and golf cart traffic and golfers. Additionally, each Owner other than the Declarant and the Association acknowledges that pesticides and chemicals may be applied to the golf club facilities throughout the year and that reclaimed water, treated wastewater or other sources of non-potable water may be used for irrigation of the golf club facilities.

**6. COVENANT FOR MAINTENANCE ASSESSMENTS**

6.1 Creation of the Lien and Personal Obligation for Assessments. Each Owner of any Lot or Unit by acceptance of title to the Lot or Unit shall be deemed to covenant and agree to pay to the Association all Assessments. All such Assessments to be fixed, established and collected from time to time as hereinafter provided. Each Owner's obligation to pay Assessments shall include all Common Assessments, Lot Landscaping Assessments (if any) and Special Assessments levied against the Owner's Lot or Unit, as provided herein. An Owner, regardless of how title is acquired, including a purchaser at a judicial sale, shall be liable for all Assessments coming due while he or she is the Owner. In the case of a voluntary conveyance, the grantee shall be jointly and severally liable with the grantor for all unpaid Assessments against the grantor up to the time of the conveyance, without prejudice to any right the grantee may have to recover from the grantor the amounts paid by the grantee.

6.2 Budget. Prior to the beginning of each calendar year, the Board shall adopt a budget for such calendar year which shall estimate all of the General Common

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Expenses to be incurred by the Association during the fiscal year, which budget shall provide reasonable reserves for replacement and deferred maintenance. The Board shall then establish the Assessment for General Common Expenses, for each Lot or Unit and shall notify each Owner in writing of the amount, frequency, and due dates of such Assessments.

The Board of Directors of the Association shall fix the date of commencement and the amount of the Assessment against each Lot or Unit for each assessment period, to the extent practicable, at least thirty (30) days in advance of such date or period, except as to emergency Assessments. The Association shall at that time prepare a roster of the Lots and Units, the Owners thereof and Assessments applicable thereto, which shall be kept in the office of the Association and shall be open to inspection by any Owner or First Mortgagee. In the event no such notice of a new Assessment is given, the Assessment amounts payable shall continue to be the same as the amount payable for the previous period, until changed in the manner provided for herein.

From time to time during the fiscal year, the Board may modify the budget. Pursuant to the revised budget or otherwise, the Board may, upon written notice to the Owners, change the amount, frequency or due dates of the Common Assessments. In no event shall any such Assessments be due less than ten (10) days from the date of the notification of such Assessments.

6.3 Assessment Rates and Commencement Dates. The Common Assessments provided for in this Article 6 shall commence, as provided below:

6.3.1 Lots. All Lots and Units shall be assessed at a uniform rate for General Common Expenses. Each Lot or Unit within the Properties shall be assessed at the full (i.e. 100%) rate commencing on the day of (1) the issuance of the certificate of occupancy (or its equivalent) for the Unit, or (2) the conveyance of the Lot by Declarant or Declarant's Permittees to an Owner other than the Declarant or Declarant's Permittees, or (3) the first occupancy of the Unit, whichever occurs first. No Unit shall be assessed separately from the Lot on which it is situated.

6.4 Purposes of Common Assessments. The Assessments levied by the Association shall be used exclusively for landscape expenses (if the Association elects to perform or contract for landscaping services), the expenses of maintaining and painting the exterior surfaces of Units and roof of Units (if the Association elects to perform such services or contract for same) the payment of expenses allocated to the Association or the Properties by the Association, and to promote the health, safety, welfare, benefit and recreational opportunities of the Members of the Association and their families residing with them (if applicable) and their permitted tenants and invitees, and for any other purpose not prohibited by law.

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6.5 Date of Commencement of Annual Assessments; Due Dates. The Common Assessments provided for in this Article shall commence on the first day of the month next following the recordation of the Initial Declaration and shall be applicable through December 31 of such year. Each subsequent Common Assessment shall be imposed for the year beginning January 1 and ending December 31.

The Common Assessments shall be payable in advance in annual installments, or in quarterly or semi-annual installments if so determined by the Board of Directors of the Association. The Assessment amount (and applicable installments) may be changed at any time by the Board from that originally stipulated or from any other Assessment that is in the future adopted. The original Common Assessment for any year shall be levied for the calendar year (to be reconsidered and amended, if necessary, every six (6) months), but the amount of any revised Assessment to be levied during any period shorter than a full calendar year shall be in proportion to the number of months (or other appropriate installments) remaining in such calendar year.

The due date of any Special Assessment shall be fixed in the Board resolution authorizing such assessment.

6.6 Certificate of Unpaid Assessments. Within fifteen (15) days after written request by an Owner or mortgagee of a Lot or Units, the Association shall provide a certificate stating all Assessments and other moneys owed to the Association by the Owner with respect to his Lot and Unit. Any person other than the Owner who relies upon such certificate shall be protected thereby.

6.7 Monetary Defaults and Collection of Assessments.

6.7.1 Late Fees and Interest. If any Assessment is not paid within ten (10) days after the due date, the Association shall have the right to charge the defaulting Owner a late fee of ten (10%) percent of the amount of the Assessment or Ten (\$10.00) Dollars, whichever is greater, plus interest at the then highest rate of interest allowable by law (or, if there is no highest lawful rate, 18% per year) from the due date until paid. If there is no due date applicable to any particular Assessment, then the Assessment shall be due ten (10) days after written demand by the Association.

6.7.2 Acceleration of Assessments. If any Owner is in default in the payment of any Assessment owed to the Association for more than thirty (30) days after written demand by the Association, the Association shall have the right to accelerate and require such defaulting Owner to pay to the Association Assessments for Common Assessments, for the next twelve (12) month period, based upon the then existing amount and frequency of such

Assessments. In the event of such acceleration, the defaulting Owner shall continue to be liable for any increases in Common Assessments, for all Special Assessments, and for all other Assessments payable to the Association.

6.7.3 Lien for Assessments. The Association has a lien on each Lot or Unit for unpaid Assessments owed to the Association by the Owner of such Lot and Unit, and for late fees and interest, and for reasonable attorneys' fees and costs incurred by the Association incident to the collection of the Assessments and enforcement of the lien (including preparation and filing the claim of lien and the complaint (if any), and prosecuting same, and all sums advanced and paid by the Association for taxes and payment on account of superior mortgages, liens or encumbrances in order to preserve and protect the Association's lien. The lien is effective from and after recording a claim of lien in the public records in the County, stating the legal description of the Lot and Unit, as applicable, the name of the record Owner, and the amount due as of the recording of the claim of lien. A recorded claim of lien shall secure all sums set forth in the claim of lien, together with all Assessments or other monies owed to the Association by the Owner until the lien is satisfied. The lien is in effect until all sums secured by it have been fully paid or until the lien is barred by law. Upon payment in full of all sums secured by the lien, the person making the payment is entitled to a satisfaction of the lien.

6.7.4 Collection and Foreclosure. The Association may bring an action in its name to foreclose a lien for Assessments in the manner a mortgage of real property is foreclosed. The Association may also bring an action at law against the Owner(s) personally obligated to pay the Assessments to recover a money judgment for the unpaid Assessments without waiving any claim of lien. The Association shall have such other remedies for collection and enforcement of Assessments as may be permitted by applicable law. All remedies are intended to be and shall be cumulative. The Association may pursue one or more of such remedies at the same time or successively. The applicable Owner shall be liable to the Association for all costs and expenses incurred by the Association in connection with the collection of any unpaid Assessments, and the filing, enforcement, or foreclosure of the Association's lien, including reasonable attorneys' fees, and all sums paid by the Association for taxes and on account of any other mortgage, lien, or encumbrance in order to preserve and protect the Association's lien. In the event a judgment is obtained, such judgment shall include all such sums as above provided and attorneys' fees together with the costs of the action, and the Association shall be entitled to attorneys' fees in connection with any appeal of any such action. The Board is authorized to settle and

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compromise the Association's lien if the Board deems a settlement or compromise to be in the best interest of the Association.

6.7.5 Rental and Receiver. If an Owner remains in possession of his Unit and the claim of lien of the Association against his Unit is foreclosed, the court in its discretion may require the Owner to pay a reasonable rental for the Unit, and the Association shall be entitled to the appointment of a receiver to collect the rent.

6.8 Subordination of the Lien. The lien of the Assessment provided for in this Article shall be subordinate to real property tax liens and to the lien of any First Mortgage recorded prior to recordation of a claim of lien. In the event of a foreclosure of such a First Mortgage, any purchaser at a foreclosure sale, or any such First Mortgagee acquiring a deed in lieu of foreclosure, and all persons claiming by, through or under any (such purchaser or such First Mortgagee, shall hold title subject to the liability and lien of any Assessment coming due after such foreclosure (or conveyance in lieu of foreclosure). The order of priority of liens hereunder shall be: real property tax liens, First Mortgage liens, and liens for Association Assessments. Any unpaid Assessment which cannot be collected as a lien against any Lot and Unit by reason of the provisions of this Section shall be deemed to be a Common Expense divided among, payable by and a lien against all Lots and Units as provided in Section 6.1, including the Lot and Unit as to which the foreclosure (or conveyance in lieu of foreclosure) took place.

6.9 Effect on Declarant. Notwithstanding any provision that may be contained to the contrary in this Declaration, for so long as Declarant (or any of its affiliates) is the owner of any Lot, Unit or undeveloped property within the Properties, the Declarant shall have the option, in its sole discretion, to (i) pay assessments on the Lots owned by it, or (ii) not to pay assessments on any Lots and in lieu thereof fund any resulting deficit in the Association's operating expenses not produced by Assessments receivable from Owners other than the Declarant. The deficit to be paid under option (ii), above, shall be the difference between (i) actual operating expenses of the Association (exclusive of capital improvement costs, reserves and management fees) and (ii) the sum of all monies receivable by the Association (including, without limitation, assessments, interest, late charges, fines, rents and incidental income) and any surplus carried forward from the preceding year(s). The Declarant may from time to time change the option stated above under which the Declarant is making payments to the Association by written notice to such effect to the Association. When all Lots and Units owned by the Declarant within the Properties are sold and conveyed to purchasers, neither the Declarant, nor its affiliates, shall have further liability of any kind to the Association for the payment of assessments, deficits or contributions.

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6.10 Association Funds. The portion of Assessments collected by the Association for reserves for future expenses shall be held by the Association and may be invested in interest bearing accounts or in certificates of deposit or other like instruments or accounts available at banks or savings and loan institutions, the deposits of which are insured by an agency of the United States.

**7. MAINTENANCE OF UNITS AND LOTS**

7.1 Exterior of Improvements. The Association reserves the right at any time to establish and enforce requirements pertaining to the maintenance of Improvements and Lots. Each Owner shall maintain or cause to be maintained all Improvements (including the appliances, roofs, windows, doors, walls, plumbing, electrical and mechanical systems of all Units and Buildings) located on such Owner's Lot in a neat, orderly and attractive manner consistent with the standards set forth in Section 7.7. Subject to the right of the Association to maintain such items, each Owner shall repaint, restain, or refinish, as appropriate, the exterior portions of Owner's Improvements (with the same colors and materials as initially used or as approved by Declarant or the DRB) as often as is necessary to comply with the foregoing standards.

7.2 Lots. Subject to the Association's right to perform landscaping services as set forth in Section 7.6, each Owner shall maintain the trees, shrubbery, grass and other landscaping (other than the Lot Landscaping maintained by the Association), and all parking, pedestrian, recreational and other open areas on such Owner's Lot in a neat, orderly and attractive manner and consistent with the standards set forth in Section 7.7.

7.3 Remedies for Noncompliance. In the event of the failure of an Owner to maintain or cause to be maintained, such Owner's Improvements and Lot in accordance with the Association's requirements, the Association shall have the right (but not the obligation), upon five (5) days' prior written notice to the Owner at the address last appearing in the records of the Association, to enter upon the Owner's Lot and perform such work as is necessary to bring the Lot or Improvement, as applicable, into compliance with the standards set forth in this Article. Such work may include, but shall not necessarily be limited to, the cutting or trimming of grass, trees and shrubs; the removal (by spraying or otherwise) of weeds and other vegetation; the resodding or replanting of grass, trees or shrubs, the repainting or restaining of exterior surfaces of an Improvement, the repair of walls, fences, roofs, docks, doors, windows and other portions of Improvements on a Lot; and such other remedial work as is judged necessary by the applicable entity. The remedies provided for herein shall be cumulative with all other remedies available under this Declaration or other applicable covenants or deed restrictions (including, without limitation, the imposition of fines or Special Assessments or the filing of legal or equitable actions).

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7.4 Costs of Remedial Work; Surcharges. In the event that the Association performs any remedial work on an Improvement or Lot pursuant to this Article or any other applicable covenants or deed restrictions, the costs and expenses thereof shall be deemed a Special Assessment under Article 6 of this Declaration and may be immediately imposed by the Board of Directors of the Association or its designee. In order to discourage Owners from abandoning certain duties hereunder for the purpose of forcing the Association to assume same, and, additionally, to reimburse same for administrative expenses incurred, the Association or its designee may impose a surcharge of not more than thirty-five percent (35%) of the cost of the applicable remedial work, such surcharge to be a part of the Special Assessment. No bids need be obtained for any of the work performed pursuant to this Article and the person(s) or company performing such work may be selected by the applicable enforcing entity in its sole discretion.

7.5 Right of Entry. There is hereby created an easement in favor of the Association and its applicable designees, over each Lot for the purpose of entering onto the Lot in the performance of the Lot Landscaping, remedial work and any other work herein described, provided that any such entry is during reasonable hours.

7.6 Lot Landscaping. The Association shall have the option of maintaining the Lot Landscaping consisting of usual and customary trees, shrubbery, grass and other landscaping and the irrigation system in the front, rear and side yards of each Lot in a neat, orderly and attractive manner consistent with the standards set forth in Section 7.7. The maintenance of the Lot Landscaping may include, but shall not necessarily be limited to: the cutting or trimming of grass, trees and shrubs; the resodding or replanting of grass, trees or shrubs; the repair and replacement of Lot irrigation; and the routine, customary application of herbicide, pesticide and algicide or fungicide, if necessary or recommended. The Association shall not be required to maintain any shrubbery, grass and other landscaping other than the usual and customary landscaping provided by the Declarant. Additionally, the Association shall not be required to mow any rear yards for which access cannot be gained by a riding mower.

7.7 Standards for Maintenance. All maintenance, repairs and replacement of Properties, Units, Lots and Lot Landscaping shall be performed in a manner consistent with the general appearance of the developed portions of the Properties and, as to Units, the portion of the Properties in which the Unit is located. The minimum (though not sole) standard for the foregoing shall be the general appearance of the Properties (and the applicable portion thereof as aforesaid) as initially landscaped (such standard being subject to being automatically raised by virtue of the natural and orderly growth and maturation of applicable landscaping, as properly trimmed and maintained). The minimum (though not sole) standard for Units shall be the portion of the Properties in which the Unit is located taking into

account, however, normal weathering and fading of exterior finishes, but not to the point of unsightliness, in the judgment of Declarant or the DRB (as hereinafter defined).

## 8. CERTAIN RESTRICTIONS, RULES AND REGULATIONS

- 8.1 Applicability. The provisions of this Article 8 shall apply to all of the Properties and the use thereof but shall not apply to the Declarant or any of its designees. This Article 8 shall apply to any Participating Builder unless it is expressly exempted in writing by Declarant from all or some of the provisions of this Article.

If requested by any interested party, Declarant shall give a written statement as to whether any particular person or entity is exempt from the provisions of this Article and to what property and for what period of time such exemption applies. The party receiving such statement shall be entitled to rely thereon and such statement shall be binding on the Declarant, the Association and all other relevant persons and entities.

- 8.2 Land Use and Building Type. Each Lot and Unit constructed thereon shall be used solely for residential purposes, except for such ancillary or other commercial uses permitted by applicable zoning codes and other laws and ordinances. However, without limiting the generality of Section 8.1, Declarant may authorize for itself, its affiliates, Declarant's Permittees and Participating Builders temporary uses for model homes, sales displays, parking lots, sales offices and other offices, or any one or any combination of such uses. No changes may be made in Units erected or approved by the Declarant (except if such changes are made by the Declarant) without the consent of Declarant or the DRB, as appropriate and as provided herein.

- 8.3 Easements. Easements for installation and maintenance of utilities are reserved as shown on the recorded plats covering the Properties and as provided herein. The area of each Lot covered by an easement and all improvements in the area shall be maintained continuously by the Owner of the Lot, except as provided herein to the contrary and except for installations for which a public authority or utility company is responsible. The appropriate water and sewer authority, electric utility company, telephone company, cable provider, natural gas company, the Association and Declarant and its affiliates, and their respective successors and assigns, shall have a perpetual easement for the installation and maintenance, all underground, of water lines, sanitary sewers, storm drains, and electric, telecommunications and cable television and cables and conduits, under and through the utility easements as shown on the plats.

- 8.4 Nuisances. No noxious, offensive or unlawful activity shall be carried on upon the Properties, nor shall anything be done thereon which may be or may become an annoyance or nuisance to other Owners.

- 8.5 Temporary Structures. No structure of a temporary character, trailer, mobile home or recreational vehicle shall be permitted on any Lots within the Properties at any time or used at any time as a residence, either temporarily or permanently, except by the Declarant, its affiliates, Declarant's Permittees or Participating Builders during construction.
- 8.6 Signs. No sign of any kind shall be displayed to the public view on any Lot or Unit or common areas/elements of the Association, except as authorized in writing by Declarant or DRB (in locations and in accordance with applicable design standards). Declarant may authorize Declarant, its affiliates, Declarant's Permittees or Participating Builders to place signs on the Properties for advertising purposes during the construction and sales period. No sign of any kind which shall be visible outside the Unit shall be permitted to be placed inside a Unit or on the outside walls of such Unit, or on any fences on the Properties, nor on the General Common Property, nor on dedicated areas, nor on entryways or any vehicles within the Properties, except such as are authorized in writing by Declarant or DRB.
- 8.7 Pets, Livestock and Poultry. Each Unit Owner or occupant (regardless of the number of joint owners or occupants) may maintain not more than three (3) household pets in such Unit Owner's or occupant's Unit, provided that the pets are not kept, bred or maintained for any commercial purpose and do not become a nuisance or annoyance to other Owners. No reptiles, wildlife, livestock or poultry of any kind shall be kept on any Lot or any Unit or any common area/element of the Association. All dogs must be kept on a leash of a length that affords reasonable control over the pet at all times when outside the Unit. No dogs shall be permitted to leave excretions on any General Common Property, except areas designated by the Association, and Owners shall be responsible to clean-up any such improper excretions. For purposes hereof, "household pets" means dogs, cats and other animals expressly permitted by the Association, if any. Nothing contained herein shall prohibit the keeping of fish or domestic (household type) birds, as long as the latter are kept indoors and do not become a source of annoyance to neighbors. Pets shall also be subject to all applicable rules. Notwithstanding the foregoing, Declarant may waive the provisions of this Section 8.7 as to any purchaser or lessee from Declarant.
- 8.8 Commercial Trucks, Trailers, Campers and Boats. Restrictions, if any, on commercial trucks, trailers, campers and boats (particularly as to the parking or storage thereof) shall be imposed and enforced by the Association; provided, however, that no recreational vehicles or boats shall be parked or stored within the Properties. Commercial trucks which contain materials or refuse in tractor beds or tool boxes shall be prohibited. Boats shall be permitted only if stored in closed garages or moored at approved Boat Docks.

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Subject to applicable laws and ordinances, any vehicle parked in violation of these or other restrictions contained herein or in the rules and regulations now or hereafter adopted may be towed by the Association at the sole expense of the owner of such vehicle if such vehicle remains in violation for a period of 24 hours from the time a notice of violation is placed on the vehicle. The Association shall not be liable to the owner of such vehicle for trespass, conversion or otherwise, nor guilty of any criminal act, by reason of such towing and once the notice is posted, neither its removal, nor failure of the owner to receive it for any other reason, shall be grounds for relief of any kind. For purposes of this paragraph, "vehicle" shall also mean campers, mobile homes and trailers. An affidavit of the person posting the aforesaid notice stating that it was properly posted shall be conclusive evidence of proper posting.

8.9 Garbage and Trash Disposal. No garbage, refuse, trash or rubbish shall be deposited except as permitted by the Association. The requirements from time to time of the applicable governmental authority, trash collection company or the Association (which may, but shall not be required to, provide solid waste removal services) for disposal or collection of waste shall be complied with. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. All solid waste containers shall comply with standards adopted by the Association (or the DRB) for such containers (the latter to control over the former in the event of conflict).

8.10 Exterior Antennas, etc. No Owner shall install any exterior antenna satellite dishes or similar equipment on any Lot, or the General Common Property or Improvement thereon, unless such antennae, satellite dishes and similar equipment are approved in writing by the DRB and conform to the conditions and requirements imposed by the DRB. No radio or shortwave operations of any kind shall be permitted to operate on any General Common Property or any Lot or Unit. The Declarant may erect an antenna or a master antenna or a cable television antenna for the use of all the Owners, and Declarant grants and hereby reserves easements for such purposes as more particularly set forth in Article 12. Notwithstanding the foregoing, to facilitate compliance with The Telecommunications Act of 1996, the following provisions apply to installation of DBS, MDS, ITFS, and LMDC dishes less than one (1) meter in diameter, and TVBS antennas:

8.10.1 No payment of any fee shall be required as a condition of installation.

8.10.2 All installation must be placed on the Lot or Unit in a location which is not visible from any street, unless such placement would: (a) unreasonably delay or prevent installation, maintenance or use; or (b) unreasonably increase the cost of installation, maintenance or use; (c) preclude reception of an acceptable quality signal.

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- 8.10.3 The Owner must take reasonable measures to screen the installation. "Reasonable" means an installation which is consistent with the overall landscape standards of The Shores, but does not (a) unreasonably delay or prevent installation, maintenance or use, (b) unreasonably increase the cost of installation, maintenance of use; or (c) preclude reception of an acceptable quality signal.
- 8.11 Trees, Shrubs and Artificial Vegetation. No tree or shrub, the trunk of which exceeds six (6) inches in diameter, may be cut down, destroyed or removed from any Lot or General Common Property without the prior written approval of the DRB. No artificial grass, plants or other artificial vegetation or sculptural landscape decor shall be placed or maintained upon the exterior portion of any Lot without the prior written approval of the DRB.
- 8.12 Exterior Lighting. All exterior lighting shall be subject to prior written approval by the DRB.
- 8.13 Games and Play Structures. All play or game structures including tennis courts (if permitted by Declarant and the Association) shall be located at the rear of the Lot, or on the inside portion of corner Lots within the setback lines. No platform, doghouse, tennis court (if permitted by Declarant and the Association), playhouse, play or game structures of a similar kind or nature shall be constructed on any part of the Lot located in front of the rear (wall) line of any Unit(s) constructed on the Lot, and any such structure must have the prior written approval of the DRB.
- 8.14 Fences and Walls. The composition, location, color and height of any fence or wall to be constructed on any Lot or Association common areas/elements is subject to the prior written approval of the DRB. The DRB shall, among other things, require that the composition of any fence or wall be consistent with the material used in the surrounding buildings and other fences, if any. No chain link fences shall be permitted on any Lot or portion thereof, unless installed by Declarant, its affiliates, Declarant's Permittees or Participating Builders during construction periods or as otherwise approved in writing by Declarant or the DRB.
- 8.15 Utility Connections. Permanent building connections for all utilities installed after the date hereof, including but not limited to, water, electricity, telephone and television, shall be run underground from the proper connecting points to the structure in such a manner to be acceptable to the governing utility authority. The foregoing shall not apply, however, to transmission lines, transformers and other equipment installed by public utility companies.
- 8.16 Off-Street Motor Vehicles. No motorized vehicle may be operated off of paved roadways and drives except as specifically approved in writing by the Association

for the purpose of maintenance, construction or similar purposes and except as operated by the Association or its contractors, subcontractors or designees.

- 8.17 Pets and Animals. Notwithstanding Section 8.7 hereof, the Association shall have the right from time to time to adopt or amend with respect to any area within the Properties restrictions (including those of Section 8.7), rules and regulations governing the type, number and size of pets or other animals that may be kept within .
- 8.18 Leasing. An Owner shall not lease the Owner's Unit more than three (3) times per twelve (12) month period. Leases shall be in writing and shall be for a term of not less than one (1) month. Before or upon leasing the Owner's Unit, an Owner shall notify the Board of Directors in writing that the Owner has leased such Owner's Unit and shall provide the Board with a copy of the lease. Tenants shall comply with the Declaration, Articles, Bylaws and all rules and regulations of the Association. An Owner leasing such Owner's Unit shall provide the Association with a written statement, on the form provided by the Association, signed by all tenant(s) acknowledging that the tenant(s) are familiar with the use restrictions applicable to The Shores and that the tenant(s) agree to comply with same. The Owner(s) of a Unit is ultimately responsible for all conduct of the Owner's tenant(s), including without limitation, any damage to the General Common Property as a result of the acts or omissions of the Owner's tenant(s).
- 8.19 Additional Use Restrictions. The Board of Directors of the Association may adopt such additional use restrictions, rules or regulations, applicable to all or any portion or portions of the Properties and to waive or modify application of the foregoing use restrictions with respect to any Lot(s) or Unit(s) as the Board in its sole discretion deems appropriate.
- 8.20 Default by Another Owner. No default by any Owner in the performance of the covenants and promises contained in this Declaration or by any person using the General Common Property or any other act of omission by any of them shall be construed or considered (a) a breach by Declarant or the Association or a nondefaulting Owners or other person or entity of any of their promises or covenants in this Declaration; or (b) an actual, implied or constructive dispossession of another Owner from the General Common Property; or (c) an excuse, justification, waiver or indulgence of the covenants and promises contained in this Declaration.
- 8.21 Association's Obligation to Indemnify. The Association and Owners each covenant and agree jointly and severally to indemnify, defend and hold harmless Declarant, its officers, directors, shareholders, and any related or affiliated persons or corporations and its employees from and against any and all claims, suits, actions, causes of action or damages arising from any personal injury, loss of life, or damage to property, sustained on or about the General Common Property, or other

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property serving the Association, and improvements thereon, or resulting from or arising out of activities or operations of the Association or Owners, their guests, invitees and contractors and from and against all costs, expenses, court costs, attorneys' fees and paraprofessional fees (including, but not limited to, all trial and appellate levels and whether or not suit be instituted), expenses and liabilities incurred or arising from any such claim, the investigation thereof, or the defense of any action or proceedings brought thereon, and from and against any orders, judgments or decrees which may be entered relating thereto. The costs and expense of fulfilling this covenant of indemnification shall be General Common Expenses to the extent such matters are not covered by insurance maintained by the Association.

8.22 Declarant Exemption. To enable the development of the Properties as a fully occupied community, no Owner, nor the Association, shall do anything to interfere with Declarant's activities. Without limiting the generality of the foregoing, nothing in this Declaration shall be understood or construed to prevent Declarant:

8.22.1 its successors or assigns, or their contractors or subcontractors, from doing on any property owned by them whatever they determine to be necessary or advisable in connection with the completion of the development of the Properties, including without limitation, the alteration of its construction plans and designs as Declarant deems advisable in the course of development. (All models or sketches showing plans for future development of the Properties may be modified by the Declarant at any time and from time to time, without notice); or

8.22.2 its successors or assigns, or their contractors, subcontractors or representatives, from erecting, constructing and maintaining on any property owned or controlled by Declarant, or its successors or assigns or their contractors or subcontractors, such structures as may be reasonably necessary for the conduct of its business of completing said development and establishing the Properties as a community and disposing of the same by sale, lease or otherwise; or

8.22.3 its successors or assigns, or their contractors or subcontractors, from conducting on any property owned or controlled by it or its successors or assigns, its or their business of developing, subdividing, grading and constructing Improvements in the Properties and of disposing of Lots and/or Units therein by sale, lease or otherwise; or

8.22.4 its successors or assigns, from determining in their sole discretion the nature of any type of Improvements to be initially constructed as part of the Properties; or



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- 8.22.5 its successors or assigns or their contractors or subcontractors, from maintaining such sign or signs on any property owned or controlled by any of them as may be necessary in connection with the operation of any of the Properties owned by Declarant or its successors or assigns or the sale, lease or other marketing of Lots, Units or otherwise from taking such other actions deemed appropriate; or
- 8.22.6 or its successors or assigns from filing Supplemental Declarations which modify or amend this Declaration, or which add or withdraw additional property as otherwise provided in this Declaration; or
- 8.22.7 from modifying, changing, re-configuring, removing or otherwise altering any improvements located on the General Common Property.

In general, the Declarant shall be exempt from all restrictions set forth in this Declaration to the extent such restrictions interfere in any manner with Declarant's plans for construction, development, use, sale or other disposition of the Properties, or any part thereof.

- 8.23 Insurance for Residences. Each Owner shall be required to obtain and maintain adequate property insurance on such Owner's Unit. Such insurance shall be sufficient for necessary repair or reconstruction work, and/or shall cover the costs to demolish a damaged residence, remove the debris, and to resod and landscape land comprising the residence. Upon the request of the Association, each Owner shall be required to supply the Board with evidence of insurance coverage on such Owner's residence which complies with the provisions of this Section. Without limiting any other provision of this Declaration or the powers of the Association, the Association shall specifically have the right to bring an action to require an Owner to comply with this Section. This Section shall not apply to any condominium unit. Notwithstanding anything to the contrary in this Section, the Association, its directors and officers, shall not be liable to any person should an Owner fail for any reason whatsoever to obtain insurance coverage on a residence.
- 8.24 Requirement to Reconstruct. In the event that any residence is destroyed by fire or other casualty, the Owner of such residence shall do one of the following: the Owner shall commence reconstruction and/or repair of the residence ("Required Repair"), or Owner shall tear the residence down, remove all the debris, and resod and landscape the property comprising the residence as required by the DRB ("Required Demolition"). If an Owner elects to perform the Required Repair, such work must be commenced within sixty (60) days of the Owner's receipt of the insurance proceeds respecting such residence. If an Owner elects to perform the Required Demolition, the Required Demolition must be completed within six (6) months from the date of the casualty. If an Owner elects to perform the Required

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Repair, such reconstruction and/or repair must be continued in a continuous, diligent, and timely manner. The Association shall have the right to inspect the progress of all reconstruction and/or repair work. Without limiting any other provision of this Declaration or the power of the Association, the Association shall have a right to bring an action against an Owner who fails to comply with the foregoing requirements. By way of example, the Association may bring an action against an Owner who fails to either perform the Required Repair or Required Demolition on such Owner's residence within the time periods and in the manner provided herein. Each Owner acknowledges that the issuance of a building permit or a demolition permit in no way shall be deemed to satisfy the requirements set forth herein, which are independent of, and in addition to, any requirements for completion of work or progress requirements set forth in applicable statutes.

8.25 Master Declaration and Enforcement. If there is any conflict between this Section and the Master Declaration, the provisions of the Master Declaration shall apply, except to the extent that the provisions of this Section are more restrictive.

8.26 Eagle Secondary Zone.

8.26.1 Eagle Nesting. The eagle nesting season will generally be assumed to occur from 1 October to 15 May unless specifically determined through observations of eagle courtship, nesting behavior, and fledging.

8.26.2 Construction Restrictions. Exterior construction activities will be prohibited in the secondary zone during the bald eagle nesting season. For the purposes of this management plan, exterior construction activities shall include horizontal and vertical construction likely to generate excessive visual or noise disturbances, Such activities would include logging, land clearing, excavation, grading, road and infrastructure construction, and exterior construction of buildings and attendant features (e.g., framing and roofing). Exterior construction in the secondary zone will be completed outside of the eagle nesting season. Work inside of structures will be allowed during the nesting season if all windows and doors have been installed and are kept closed. Other outdoor work not requiring loud equipment or power tools will also be permissible in the secondary zone during the nesting season.

8.27 Participating Builder. No Unit shall be constructed or permitted on any Lot within the Properties at any time unless it is constructed by a Participating Builder approved by the Declarant.

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8.28 Size of Unit. The living area of each Unit shall contain a minimum of 3,000 square feet. Living area is defined as heated and/or air-conditioned areas and shall be exclusive of garages, porches, patios and terraces.

8.29 Roofs. Tile or cement tile are the required roof materials on all roofs. Roof color shall be an integral part of the exterior color scheme of the Unit.

**9. COMPLIANCE AND ENFORCEMENT**

9.1 Compliance by Owners. Every Owner (except to the extent the Declarant is exempted) the Owner's tenants, guests, invitees, officers, employees, contractors, subcontractors and agents shall comply with any and all rules and regulations adopted by the Association as contemplated herein as well as the provisions of this Declaration.

9.2 Enforcement. Failure to comply with any of such rules or regulations shall be grounds for immediate action which may include, without limitation, an action to recover sums for damages, injunctive relief or any combination thereof.

9.3 Fines. In addition to all other remedies and to the maximum extent lawful, in the sole discretion of the Board of Directors of the Association, a fine or fines may be imposed upon an Owner for failure of an Owner, or any of the other parties described in Section 9.1 to comply with this Declaration or with any rule or regulation, provided the following procedures are adhered to:

9.3.1 Notice. The Association shall notify the Owner of the infraction in accordance with the provisions of the By-Laws. Included in the notice shall be the date and time of a special meeting of the Board of Directors acting as the Covenants Committee at which time the Owner shall present reasons why fines should not be imposed.

9.3.2 Hearing. The non-compliance shall be presented to the Board of Directors acting as the Covenants Committee after which the Board of Directors shall hear reasons why a fine should not be imposed. The hearing shall be conducted in accordance with the provisions of the By-Laws. A written decision of the Board of Directors shall be submitted to the Owner by not later than twenty-one (21) days after the Board meeting. The Owner shall have a right to be represented by counsel and to cross-examine witnesses.

9.3.3 Amounts of Fines. The Board of Directors (based on its findings or those of the Covenants Committee) may impose Special Assessments against the Lot and Unit owned by the Owner as follows:

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- (1) First non-compliance or violation: a fine not in excess of One Hundred Dollars (\$100.00).
- (2) Second non-compliance or violation: a fine not in excess of Five Hundred Dollars (\$500.00).
- (3) Third and subsequent non-compliance or violation or violations which are of a continuing nature: a fine not in excess of One Thousand Dollars (\$1,000.00).

9.3.4 Payment of Fines. Fines shall be paid not later than five (5) days after notice of the imposition or assessment of the penalties.

9.3.5 Collection of Fines. Fines shall be treated as a Special Assessment subject to the provisions for the collection of Assessments as set forth in Article 6.

9.3.6 Application of Fines. All monies received from fines shall be allocated as directed by the Board of Directors.

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

## 10. DEVELOPMENT REVIEW; GENERAL POWERS

The following provisions of this Article 10 are subject to those of Article 11 hereof.

10.1 Members of DRB. The Association by majority vote of the Board may in its sole discretion, establish a Design Review Board by the Board appointing a Design Review Board (the "DRB"). The provisions of this Article 10 shall only apply to those periods when a DRB exists. The Design Review Board of the Association, which is sometimes referred to in this Declaration as the "DRB", shall initially consist of three (3) members. The initial members of the DRB shall consist of persons designated by Declarant. Each of the initial members shall hold office until all Lots, Units and Improvements planned for The Shores have been constructed and conveyed (if appropriate), or sooner at the option of Declarant. Thereafter, each new member of the DRB (or initial members if the Declarant has not previously appointed members) shall be appointed by the Board of Directors of the Association and shall hold office until such time as he or she has resigned or has been removed or his or her successor has been appointed, as provided herein. Members of the DRB may be removed at any time without cause. The Board of Directors shall have

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the right to change the number of, appoint and remove all members of the DRB, except those initially appointed by Declarant and their replacements.

The members of the DRB shall not be compensated for their services as such, although they may be reimbursed for their reasonable out of pocket expenses incurred in connection with the performance of their duties under this Declaration. Such expenses shall be a General Common Expense of the Association. The DRB may, with the approval of the Board of Directors of the Association as to amounts, require the payment of a nonrefundable filing fee as a condition to the consideration of any matter presented to it, such fees to be applied to expenses of the DRB (including, without limitation, overhead, development, review, enforcement and other Association expenses reasonably allocable to the DRB) and fees for professional services and consultants.

In addition to the power and duties set forth herein, the DRB shall have the right and duty to enforce such design and development review, architectural control, maintenance and other requirements and restrictions imposed on any portion of the Properties by Declarant as Declarant shall, in its sole discretion, if at all, elect to have it enforce (subject at all times to Declarant's right to modify or revoke such right and duty). Such election may be made by Declarant by means of deed restrictions, contract or by way of an exclusive or non-exclusive assignment of Declarant's rights to enforce same. Further, Declarant may provide for specific criteria and procedures to be used by the DRB in such regard (subject to later modification). Absent such provision the DRB shall proceed in the manner set forth in this Article. Initially, the Declarant has established specific, written criteria and procedures to be used by the DRB in such regard entitled "The Shores at Waterlefe Design Guidelines."

- 10.2 Review of Proposed Construction. No Unit, fence, wall or other structure or Improvement (including, but not limited to, landscaping, hurricane protection, docks, basketball hoops, birdhouses, other pet houses, asphaltting or other improvements or changes thereto of any kind) shall be commenced, altered, removed, painted, erected or maintained in the Properties, nor shall any addition, removal, change or alteration (including paint or exterior finishing) visible from the exterior of any Unit be made, nor shall any awning, canopy or shutter be attached to or placed upon outside walls or roofs of Units or other Improvements, until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to, and approved in writing by the DRB and the Master Association's DRB. The DRB shall approve proposals or plans and specifications submitted for its approval only if it deems that the construction, alteration, removal or addition contemplated thereby in the location(s) indicated will meet the requirements of "The Shores at Waterlefe Design Guidelines", as may be amended from time to time, will not be detrimental to the appearance of The Shores as a whole, and that the appearance of any structure affected thereby will

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be in harmony with the surrounding structures and is otherwise desirable. The DRB may condition its approval of proposals and plans and specifications as it deems appropriate, and may require submission of additional plans and specifications or other information prior to approving or disapproving material submitted. The DRB may also issue rules or guidelines setting forth procedures for the submission of plans for approval. The DRB may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, floor plans, site plans, drainage plans, elevation drawings and descriptions or samples of exterior materials and colors. Until receipt by the DRB of any required plans and specifications, the DRB may postpone review of any plans submitted for approval. Upon such receipt, the DRB shall have thirty (30) days in which to accept or reject any proposed plans and if the DRB does not reject same within such period, said plans shall be deemed approved.

The Master Association's DRB has established its own separate criteria and procedures, and those criteria and procedures must also be complied with in this regard. Separate approval from the Master Association's DRB must also be obtained.

All changes and alterations shall also be subject to all applicable permit requirements and to all applicable governmental laws, statutes, ordinances, rules, regulations, orders and decrees.

- 10.3 Meetings of the DRB. The DRB shall meet from time to time as necessary to perform its duties hereunder. The DRB may from time to time, by resolution unanimously adopted in writing, designate a DRB representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the DRB, except the granting of variances pursuant to Section 10.7. In the absence of such designation, the vote of any two (2) members of the DRB shall constitute an act of the DRB.
- 10.4 No Waiver of Future Approvals. The approval of the DRB of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the DRB, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters whatever subsequently or additionally submitted for approval or consent.
- 10.5 Inspection of Work. Inspection of work and correction of defects therein shall proceed as follows:
- 10.5.1 Upon the completion of any work for which approved plans are required under this Article, the applicant for such approval (the "Applicant") shall give written notice of completion to the DRB.

- 10.5.2 Within sixty (60) days thereafter, the DRB or its duly authorized representative may inspect such Improvement. If the DRB finds that such work was not effected in substantial compliance with the approved plans, it shall notify the Applicant in writing of such noncompliance within such sixty (60) day period, specifying the particulars of noncompliance, and shall require the Applicant to remedy the same.
- 10.5.3 If the Applicant fails to remedy such noncompliance within thirty (30) days from the date of notice, the DRB shall notify the Board in writing of such failure. The Board shall then determine whether there is a noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a noncompliance exists, the Applicant shall remedy or remove the same within a period of not more than forty-five (45) days from the date of announcement of the Board ruling. If the Applicant does not comply with the Board ruling within such period, the Board, at its option, may either remove the noncomplying Improvement or remedy the noncompliance. The Applicant shall reimburse the Association upon demand for all expenses incurred in connection therewith, plus an administrative charge to be determined by the Association (to cover the Association's administrative expenses in connection with the foregoing and to discourage the Applicant from failing to comply). If such expenses are not promptly repaid by the Applicant to the Association, the Board shall levy a Special Assessment against the Applicant and Applicant's Lot and Unit for reimbursement.
- 10.5.4 If for any reason the DRB fails to notify the Applicant of any noncompliance within sixty (60) days after receipt of written notice of completion from the Applicant, the Improvement shall be deemed to have been made in accordance with the approved plans.
- 10.6 Non-Liability of DRB Members. Neither the DRB nor any member thereof, nor its duly authorized representative, shall be liable to the Association, or to any Owner or any other person or entity, for any loss, damage or injury arising out of or in any way connected with the performance or non-performance of the DRB's duties hereunder. The DRB shall review and approve or disapprove all plans submitted to it for any proposed Improvement, alteration or addition solely on the basis of aesthetic considerations and benefit or detriment which would result to the immediate vicinity and to The Shores. The DRB shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials and some of the procedures set forth

herein and, without limiting the generality of Section 1.36, may alter the procedures set forth herein as to any such designee.

- 10.7 Exemptions. Declarant and its affiliates and designees shall be exempt from the provisions hereof with respect to improvements, alterations and additions and removals desired to be effected by any of them and shall not be obligated to submit plans and specifications to or obtain Association or DRB approval for any construction or changes which any of them may elect to make at any time.

Notwithstanding any provision elsewhere in this Declaration to the contrary, the matters set forth in this Section and in any Supplemental Declaration relating to this Section executed by Declarant in connection with the sale of any Lot or Unit cannot be amended or modified without the written consent of the Owner of the particular Lot or Unit in question.

**11. ASSOCIATION AND DECLARANT**

- 11.1 Preamble. In order to ensure the orderly development, operation and maintenance of the Properties, this Article has been promulgated for the purposes of (1) giving the Association certain powers to effectuate such goal, (2) providing for intended (but not guaranteed) economies of scale and (3) establishing the framework of the mechanism through which the foregoing may be accomplished.

- 11.2 Cumulative Effect; Conflict. The covenants, restrictions and provisions of this Declaration shall be cumulative with those of the Master Declaration. This Declaration is also subject to the Master Declaration as same may be amended from time-to time. In the event of conflict between or among any covenants, restrictions and provisions, or any articles of incorporation or any bylaws, or any rules and regulations, policies or practices adopted or carried out pursuant to the Master Declaration, those of this Declaration shall be subject and subordinate to the Master Declaration, except to the extent that the provisions of this Declaration are more restrictive. The foregoing priorities shall apply, but not be limited to, the lien for Assessments created in favor of the Association (as provided in Article 6 hereof). Additionally, the Association may assign and delegate any of its rights, duties and powers to the Master Association for such period of time, and on such terms and conditions as shall be agreed upon by the Master Association and the Association. By way of example and not by way of limitation, the Association may delegate to the Master Association the obligation to collect assessments for the Association and to provide landscaping services on behalf of the Association.

**12. CABLE AND TELECOMMUNICATION SYSTEMS.**

- 12.1 Reservation of Rights and Easements. Declarant hereby reserves for itself and its designees, successors, assignees and licensees the right, without obligation, to

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construct, install, maintain, repair, move, improve and replace over, through, under and across any portion of the Properties for use by the Owners and their guests, invitees, tenants and family members one or more cable and/or telecommunications receiving and distribution systems and electronic surveillance systems, emergency, medical or surveillance monitoring or alarm systems (all or any part of which shall be referred to herein as the "System"). The exact description, location and nature of the System, if any, may have not yet been fixed nor determined. Declarant hereby reserves for itself and its designees, successors, assignees and licensees (a) a perpetual and exclusive right, privilege, easement and right-of-way for the installation, construction, maintenance, repair, improvement, relocation and replacement of the System; (b) a perpetual and exclusive right and privilege of: (i) unlimited ingress and egress thereto for installing, constructing, inspecting, maintaining, altering, moving, improving and replacing the facilities and equipment constituting the System, including without limitation, any towers, antennas, conduits, wires, cables, lines, panels, boxes, housings, connections, insulators and amplifiers necessary or desirable to receive and distribute services of the System; and (ii) transmitting. The facilities and equipment for the System shall be owned and exclusively controlled by Declarant, its successors and assigns or its designees. The scope, extent, size and location of the System over, across, upon and through the Properties shall be determined solely by Declarant, its successors, designees and assigns.

- 12.2 Contracts for System Services. Declarant and the Association shall have the right to enter contracts for the exclusive provision of all services the System is capable of supplying, including, without limitation, television, radio and telephone signals, electronic banking, surveillance, fire, police and emergency medical protection, as Declarant and the Association shall deem, in their sole respective discretion, to be in the best interests of the Properties. Should the Declarant enter into a contract or contracts pursuant to this Section 12.2, the Association shall, to the extent the Declarant assigns its rights and obligations under any such contract or contracts, accept and assume such assignment. The Association hereby agrees to be bound by all of the terms and provisions of the contract or contracts and to impose the charges for such services as a General Common Expense of the Association collectable as any other assessments imposed by the Association.
- 12.3 Designee. The term "designee" as used in this Article 12 means one or more entities with which Declarant or the Association has contracted for the furnishing of such System services.
- 12.4 Charges for System Services. Every Unit shall be subject to a charge for services provided by the System, including but not limited to basic and expanded cable television programming services. The Association shall impose as part of the Common Assessments against each Unit the amount of the basic fees due and

payable for the System and shall collect same and forthwith remit the amount collected to the contractual designee providing the System services.

- 12.5 Exclusions. Declarant may excuse portions of the Properties from the provisions of this Section which, in the determination of Declarant, have uses for System services inconsistent with the overall design of such services in the Properties as a whole.
- 12.6 Right to Contract. Prior to the Community Completion Date, all contracts between provider of any of the services described in Section 12.2 and the Association shall be subject to the prior written approval of Declarant. Declarant and/or its nominees, successors, assigns, affiliates and licensees may contract with Association and act as a provider of one or more services, subject only to the requirements of all applicable laws, statutes and regulations. If Declarant is not the provider for any particular service, Declarant shall have the right to receive, on a perpetual basis, all or a portion of access fees and/or the revenues derived from such services within The Shores as agreed, from time to time, between the provider and Declarant.

**13. ADDITIONAL RIGHTS OF THE DECLARANT**

13.1 General. Notwithstanding any other provision in this Declaration to the contrary, the Declarant and each affiliate of the Declarant shall have, in addition to its other rights, the rights described below in Sections 13.1.1 through 13.1.6 Paragraphs (a) through (f). There is hereby created and reserved a blanket easement for the Declarant and each affiliate of the Declarant to enable each of them and (to the extent authorized in writing by Declarant) the Declarant's Permittees to exercise those rights free of any interference by the Association or by any Owner:

- 13.1.1 Effectuation of General Plan of Development. The right to execute all documents and take all actions affecting any portion of the Properties owned or controlled by it which, in its sole discretion, are desirable or necessary to effectuate or facilitate the development of The Shores.
- 13.1.2 Platting. The right to plat, re-plat, subdivide and re-subdivide any portion or portions of the Properties owned or controlled by it.
- 13.1.3 Development Planning. The right to determine, in its sole discretion, the type of Improvements, if any, to be constructed on any portion of the Properties owned or controlled by it and the right to revise its plans concerning such Improvements.
- 13.1.4 Construction. The right to construct and maintain, on any portion of the Properties owned or controlled by it, any Improvements it considers desirable, and the right to construct walks, drives, ramps and parking facilities flush against and as a continuance of similar

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Improvements located on portions of the Properties not owned or controlled by it even if doing so entails an encroachment upon the latter property.

13.1.5 Marketing. The right to sell, lease and otherwise dispose of existing and planned Units (and portions thereof), which right shall include (though not be limited to) the right to construct and maintain sales offices and models on any portion of the Properties owned or controlled by it, to solicit and receive the visits of unlimited numbers of prospective purchasers and tenants (all of whom shall have the right while visiting to use parking spaces), to hold promotional events and to place signs and other promotional devices on any portion or portions of the Properties owned or controlled by it without regard to the size or aesthetic appeal of such signs or devices.

13.1.6 Assignment. Without limiting the generality of Section 1.36 hereof, the right to assign the foregoing rights, in whole or in part, to any one or more Declarants or Declarant's assignees.

13.2 Injunctive Relief for Interference. The Declarant and each affiliate or assignee of the Declarant shall be entitled to injunctive relief for any actual or threatened interference with its or their rights under this Article, in addition to whatever remedies at law it or they might be entitled to.

#### 14. ADDITIONAL RIGHTS OF FIRST MORTGAGEES

In addition to all other rights herein set forth, every First Mortgagee and every insurer and governmental guarantor of a First Mortgage held by a Mortgagee shall have the right, upon written request to the Association identifying itself and the Lots and Units subject to a First Mortgage it holds or has insured or guaranteed, to:

14.1 Examine, during normal business hours or other reasonable circumstances, the Association's books, records and financial statements, and current copies of this Declaration, of the Articles and By-Laws, and of its rules and regulations;

14.2 Receive notice of the Association's meetings and attend such meetings;

14.3 Receive notice of an alleged default by any Owner whose Lot or Unit is subject to a Mortgage it holds or has insured or guaranteed, if the default is not cured within sixty (60) days after notice of the default to the Owner;

14.4 Receive a copy of, within reasonable time after it requests it, financial statement of the Association for the immediately preceding fiscal year;

- 14.5 Receive notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;
- 14.6 Receive notice of any proposed action by the Association which would require hereunder the consent or approval of a specified percentage of Mortgagees;
- 14.7 Pay, singly or jointly, taxes or other charges that are delinquent and have resulted or may result in a lien against any portion of the General Common Property and receive immediate reimbursement from the Association; and
- 14.8 Pay, singly or jointly, any overdue premiums on any hazard insurance policy covering General Common Property or obtain, singly or jointly, new hazard insurance coverage on General Common Property upon the lapse of a policy and, in either case, receive immediate reimbursement from the Association.

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**15. AMENDMENTS TO DECLARATION**

This Declaration may be amended only by (1) the affirmative vote or written consent of the Members (through their respective Voting Members) having not less than two-thirds of the votes of Class A Members and the affirmative vote or written approval of the Class B Member (so long as the Class B Membership exists); or (2), subject to the requirements of this Article, the affirmative vote or written approval of the Class B Member alone. No amendment shall be permitted which changes the rights, privileges and obligations of the Declarant or any affiliate of the Declarant, without the prior written consent of whichever of them is affected. In addition, and without limiting the generality of the rights accorded the Class B Member in the preceding sentence, the Class B Member shall have an absolute right to make any amendments to this Declaration (without any other party's consent or joinder) that are requested or required by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, Federal Housing Administration, Veterans Administration or any other governmental, quasi-governmental or government-chartered entity which owns or expects to own one or more Mortgages on Lots and Units within The Shores or to insure the payment of one or more such Mortgages or that are requested or required by any institutional First Mortgagee to enhance the salability of its Mortgages on Lots and Units to one or more of the foregoing. Nothing contained herein shall affect the right of the Declarant to make whatever amendments or Supplemental Declarations are otherwise expressly permitted hereby without the consent or approval of any Owner or Mortgagee.

**16. EFFECT AND DURATION OF COVENANTS**

This Declaration shall run with, bind, benefit and burden all of the Properties, and shall run with, bind, and be enforceable by and against the Declarant, the Association, every Owner and Member, and the respective legal representatives, heirs, successors and

assigns of each, for a term of fifty (50) years from the date the Initial Declaration is recorded. After that time the term of this Declaration shall be automatically extended for successive periods of ten (10) years each unless an instrument has been recorded in which seventy percent (70%) of the then Members' interest and majority of the holders of the then outstanding First Mortgages (determined on the basis of the number of Lots or Units encumbered) agree by signing it to revoke the Covenants in whole or in part.

**17. SECURITY**

NEITHER DECLARANT NOR THE ASSOCIATION MAKE ANY REPRESENTATIONS WHATSOEVER AS TO THE SECURITY OF THE PROPERTIES OR THE EFFECTIVENESS OF ANY MONITORING SYSTEM OR SECURITY SERVICE. ALL MEMBERS AGREE TO HOLD DECLARANT AND THE ASSOCIATION HARMLESS FROM ANY LOSS OR CLAIM ARISING FROM THE OCCURRENCE OF ANY CRIME OR OTHER ACT. NEITHER THE ASSOCIATION, DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTIES. NEITHER THE ASSOCIATION, DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OR FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES TAKEN, IF ANY. ALL MEMBERS, OWNERS AND OCCUPANTS OF ANY UNIT, GUESTS AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM, GATEHOUSE, OR OTHER SECURITY SYSTEM, IF ANY, MAY BE COMPROMISED OR CIRCUMVENTED, THAT ANY FIRE PROTECTION, BURGLAR ALARM SYSTEMS, GATEHOUSE OR OTHER SECURITY SYSTEMS MAY NOT PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP OR OTHERWISE, AND THAT FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR GATEHOUSE OR OTHER SECURITY SYSTEMS MAY NOT IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH MEMBER, OWNER AND OCCUPANT OF ANY UNIT, AND EACH GUEST AND INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS AND COMMITTEES, DECLARANT, AND ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH MEMBER, OWNER AND OCCUPANT OF ANY UNIT AND EACH GUEST AND INVITEE OF ANY MEMBER OR OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO UNITS AND TO THE CONTENTS OF UNITS, AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS AND COMMITTEES, DECLARANT, AND ANY SUCCESSOR DECLARANT HAVE NOT MADE ANY REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, MEMBER, OCCUPANT, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OR MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY

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SYSTEMS RECOMMENDED OR INSTALLED, IF ANY, OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTIES.

**18. GENERAL PROVISIONS**

- 18.1 Exculpation. No personal liability is assumed by nor shall at any time be asserted or enforceable against the Declarant on account of any representation, covenant, undertaking or agreement of the Declarant contained in this Declaration either expressed or implied. All such personal liability, if any, is expressly waived and released by the Association, the Owners and by all persons claiming by, through or under the Owners.
- 18.2 Notice. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when personally delivered or mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing. It shall be the duty of each Owner to keep the Association advised of his name and addresses and any changes therein.
- 18.3 Enforcement. Enforcement of these Covenants shall be accomplished by means of a proceeding at law or in equity against any person or persons violating or attempting to violate any Covenant, either to restrain the violation or to recover damages, and against the land to enforce any lien created by these covenants. Failure of the Association, the Declarant, the DRB or any Owner to enforce any Covenant shall in no event be deemed a waiver of the right to do so thereafter.
- 18.4 Severability. Invalidation of any one of these Covenants or any part, clause or word hereof, or the application thereof in specific circumstances, by judgment or court order shall not affect any other provisions or applications in other circumstances, all of which shall remain in full force and effect.
- 18.5 Performance of Association's Duties by Declarant. Declarant shall have the right from time to time at its sole discretion, to perform at Declarant's expense the duties and obligations required hereunder to be performed by the Association. In connection therewith Declarant shall have the right to reduce the budget of the Association and the Assessments for Common Expenses payable by the Owners; provided however that any such performance on the part of Declarant may be discontinued by Declarant at any time, and any such performance shall not be deemed to constitute a continuing obligation on the part of Declarant.
- 18.6 Conflict. This Declaration shall take precedence over conflicting provisions in the Articles and By-Laws of the Association and the Articles shall take precedence over the By-Laws.

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- 18.7 Effective Date. This Declaration shall become effective upon its recordation in the Public Records of the County.
- 18.8 Standards for Consent, Approval, Completion, Other Action and Interpretation. Whenever this Declaration shall require the consent, substantial completion, or other action by the Declarant or its affiliates, the Association or the Design Review Board, such consent, approval or action may be withheld held in the sole and unfettered discretion of the party requested to give such consent or approval or take such action. All matters required to be completed or substantially completed by the Declarant or its affiliates, the Association or the DRB shall be deemed so completed or substantially completed when such matters have been completed or substantially completed in the reasonable opinion of the Declarant, Association or DRB, as appropriate. This Declaration shall be interpreted by the Board of Directors and an opinion of counsel of the Association rendered in good faith that a particular interpretation is not unreasonable shall establish the validity of such interpretation.
- 18.9 Easements. If any easement provided for in this Declaration fails because at the time of creation there may be no grantee having the capacity to take and hold such easement, then any such grant of easement shall nevertheless be considered as having been granted directly to the Association as agent for such intended grantees for the purpose of allowing the original parties to whom the easements were originally to have been granted the benefit of such easement. The Owners hereby designate the Declarant and the Association (or either of them) as their lawful attorney-in-fact to execute any instrument on such Owners' behalf as may hereafter be required or deemed necessary for the purpose of later creating such easement as it was intended to have been created herein.
- 18.10 CPI. Whenever specific dollar amounts are mentioned in this Declaration (or in the Articles or By-Laws or rules and regulations), unless limited by law, such amounts will be increased from time to time by application of a nationally recognized consumer price index chosen by the Board, using the date this Declaration is recorded as the base year. In the event no such consumer price index is available, the Board shall choose a reasonable alternative to compute such increases.
- 18.11 Waiver of Jury Trial. EACH OWNER BY ACCEPTANCE OF A DEED, LEASEHOLD OR OTHER INTEREST, AGREES THAT THIS DECLARATION AND THE ASSOCIATION DOCUMENTS ARE VERY COMPLEX; THEREFORE, ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION, WITH RESPECT TO ANY ACTION, PROCEEDING, CLAIM, COUNTERCLAIM, OR CROSS CLAIM, WHETHER IN CONTRACT AND/OR IN TORT (REGARDLESS IF THE TORT ACTION IS PRESENTLY RECOGNIZED OR NOT), BASED ON, ARISING OUT OF, IN CONNECTION WITH OR IN ANY WAY RELATED TO THIS DECLARATION, THE ARTICLES, BYLAWS, ASSOCIATION DOCUMENTS, INCLUDING ANY COURSE OF CONDUCT, COURSE OF DEALING, VERBAL OR WRITTEN STATEMENT,

VALIDATION, PROTECTION, ENFORCEMENT ACTION OR OMISSION OF ANY PARTY SHOULD BE HEARD IN A COURT PROCEEDING BY A JUDGE AND NOT A JURY IN ORDER TO BEST SERVE JUSTICE. DECLARANT HEREBY SUGGESTS THAT EACH OWNER UNDERSTAND THE LEGAL CONSEQUENCES OF ACCEPTING A DEED, LEASEHOLD OR OTHER INTEREST. NO OWNER, DECLARANT, PARTICIPATING BUILDER, OCCUPANT OR ANY OTHER PERSON BOUND BY THIS DECLARATION WILL SEEK TO CONSOLIDATE ANY SUCH ACTION, IN WHICH A JURY TRIAL HAS BEEN WAIVED, WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT OR HAS NOT BEEN WAIVED.

18.12 Enforcement Costs. If any legal action or other proceeding is brought for the enforcement of this Declaration, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Declaration, the successful or prevailing party shall be entitled to recover reasonable attorney's fees, court costs and all expenses even if not taxable as court costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

18.13 Covenants Running With The Land. IT IS THE INTENTION OF ALL PARTIES AFFECTED HEREBY (AND THEIR RESPECTIVE HEIRS, PERSONAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS) THAT THESE COVENANTS SHALL RUN WITH THE LAND AND WITH TITLE TO THE PROPERTIES. WITHOUT LIMITING THE GENERALITY OF SECTION 18.4 HEREOF, IF ANY PROVISION OR APPLICATION OF THIS DECLARATION WOULD PREVENT THIS DECLARATION FROM RUNNING WITH THE LAND AS AFORESAID, SUCH PROVISION OR APPLICATION SHALL BE JUDICIALLY MODIFIED, IF AT ALL POSSIBLE, TO COME AS CLOSE AS POSSIBLE TO THE INTENT OF SUCH PROVISION OR APPLICATION AND THEN BE ENFORCED IN A MANNER WHICH WILL ALLOW THESE COVENANTS TO SO RUN WITH THE LAND; BUT IF SUCH PROVISION OR APPLICATION CANNOT BE SO MODIFIED, SUCH PROVISION OR APPLICATION SHALL BE UNENFORCEABLE AND CONSIDERED NULL AND VOID IN ORDER THAT THE PARAMOUNT GOAL OF THE PARTIES AFFECTED HEREBY (THAT THESE COVENANTS RUN WITH THE LAND AS AFORESAID) BE ACHIEVED.

18.14 Limitation on Association. Anything in this Declaration to the contrary notwithstanding, the existence or exercise of any easement, right, power, authority, privilege or duty of the Association as same pertains to any condominium located within the Properties which would cause the Association to be subject to Chapter 718, Florida Statutes, shall be null, void and of no effect to the extent, but only to the extent, that such existence or exercise is finally determined to subject the Association to said Chapter 718. It is the intent of this provision that the Association

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not be deemed to be a condominium association, nor the General Common Property be deemed to be common elements of any such condominium, within the meaning of applicable laws or administrative rules for any purpose.

- 18.15 Notices and Disclaimers as to Water Bodies. NEITHER DECLARANT, THE ASSOCIATION, NOR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, COMMITTEE AND BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS, SUB-CONTRACTORS, SUCCESSORS OR ASSIGNS (COLLECTIVELY, THE "LISTED PARTIES") SHALL BE LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE WATER QUALITY OR LEVEL IN ANY LAKE, POND, CANAL, CREEK, STREAM OR OTHER WATER BODY. FURTHER, ALL OWNERS AND USERS OF ANY PORTION OF THE SHORES LOCATED ADJACENT TO OR HAVING A VIEW OF ANY OF WATER BODIES SHALL BE DEEMED, BY VIRTUE OF THEIR ACCEPTANCE OF THE DEED TO OR USE OF, SUCH PROPERTY, TO HAVE AGREED TO HOLD HARMLESS THE LISTED PARTIES FOR ANY AND ALL CHANGES IN THE QUALITY AND LEVEL OF THE WATER IN SUCH BODIES.

ALL PERSONS ARE HEREBY NOTIFIED THAT FROM TIME TO TIME ALLIGATORS AND OTHER WILDLIFE MAY INHABIT OR ENTER INTO WATER BODIES IN OR AROUND THE SHORES AND MAY POSE A THREAT TO PERSONS, PETS AND PROPERTY, BUT THAT THE LISTED PARTIES ARE UNDER NO DUTY TO PROTECT AGAINST, AND DO NOT IN ANY MANNER WARRANT AGAINST, ANY DEATH, INJURY OR DAMAGE CAUSED BY SUCH WILDLIFE.

- 18.16 Duration of Rights. The rights of Declarant set forth in this Declaration shall, unless specifically provided to the contrary herein, extend for a period of time ending upon the earlier of: (i) when neither Declarant nor any affiliate of Declarant has any further interest of any kind in The Shores; or (ii) a relinquishment by Declarant in an amendment to the Declaration placed in the Public Records. All indemnification provisions in favor of Declarant or related or affiliated parties shall be perpetual, shall survive the termination of this Declaration and the termination of Declarant's interest in The Shores

- 18.17 Non-Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE THE ASSOCIATION DOCUMENTS OR OTHERWISE, NEITHER THE DECLARANT OR THE ASSOCIATION SHALL BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE SHORES INCLUDING, WITHOUT LIMITATION, RESIDENTS AND THEIR FAMILIES, GUESTS, LESSEES, LICENSEES, INVITEES, AGENTS, SERVANTS, CONTRACTORS, AND/OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS, INCLUDING, WITHOUT LIMITATION, THE DEATH OF OR

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INJURY TO ANY SUCH PERSONS, AND ANY DAMAGE TO OR LOSS OF ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

18.17.1 THE ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED, TO ACT AS AN AGENCY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE STATE OF FLORIDA AND/OR THE COUNTY OR PREVENTS TORTUOUS ACTIVITIES; AND

18.17.2 THE PROVISIONS OF THE ASSOCIATION DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY, AND WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS A GRANT OF AUTHORITY ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF THE ASSOCIATION TO PROTECT OR FURTHER THE HEALTH, SAFETY, OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

EACH OWNER (BY VIRTUE OF HIS ACCEPTANCE OF TITLE TO A LOT AND/OR UNIT) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING A USE OF, ANY PORTION OF THE SHORES (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USE) SHALL BE BOUND BY THIS SECTION AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE DECLARANT AND THE ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF THE DECLARANT OR THE ASSOCIATION HAS BEEN DISCLAIMED IN THIS SECTION OR OTHERWISE. AS USED IN THIS SECTION, "ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANINGS ALL OF EACH RESPECTIVE ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE AND BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS, MANAGEMENT COMPANIES, SUBCONTRACTORS, SUCCESSORS AND ASSIGNS. AS USED IN THIS SECTION, "DECLARANT" SHALL INCLUDE WITHIN ITS MEANING ALL OF DECLARANT'S DIRECTORS, OFFICERS, COMMITTEE AND BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS, MANAGEMENT COMPANIES, SUBCONTRACTORS, SUCCESSORS AND ASSIGNS.

18.18 Venue. EACH OWNER ACKNOWLEDGES REGARDLESS OF WHERE SUCH OWNER (i) EXECUTED A PURCHASE AND SALE AGREEMENT, (ii) RESIDES, (iii) OBTAINED FINANCING OR (iv) CLOSED ON A LOT AND/OR UNIT, THIS DECLARATION LEGALLY AND FACTUALLY WAS EXECUTED IN THE COUNTY DECLARANT HAS AN OFFICE IN THE COUNTY AND EACH HOME IS LOCATED

IN THE COUNTY. ACCORDINGLY, AN IRREFUTABLE PRESUMPTION EXISTS THAT THE ONLY APPROPRIATE VENUE FOR THE RESOLUTION OF ANY DISPUTE LIES IN THE COUNTY. IN ADDITION TO THE FOREGOING, EACH OWNER AND DECLARANT AGREE THAT THE VENUE FOR RESOLUTION OF ANY DISPUTE LIES IN THE COUNTY.

18.19 Reliance. BEFORE ACCEPTING A DEED TO A LOT AND/OR UNIT, EACH OWNER HAS AN OBLIGATION TO RETAIN AN ATTORNEY IN ORDER REVIEW AND UNDERSTAND THIS DECLARATION. BY ACCEPTANCE OF A DEED TO A LOT AND/OR UNIT, EACH OWNER ACKNOWLEDGES THAT HE OR SHE HAS SOUGHT AND RECEIVED SUCH AN OPINION OR HAS MADE AN AFFIRMATIVE DECISION NOT TO SEEK SUCH AN OPINION. DECLARANT IS RELYING ON EACH OWNER CONFIRMING IN ADVANCE OF ACQUIRING A LOT AND/OR UNIT THAT THIS DECLARATION IS VALID, FAIR AND ENFORCEABLE. SUCH RELIANCE IS DETRIMENTAL TO DECLARANT. ACCORDINGLY, AN ESTOPPEL AND WAIVER EXISTS PROHIBITING EACH OWNER FROM TAKING THE POSITION THAT ANY PROVISION OF THIS DECLARATION IS INVALID IN ANY RESPECT. AS A FURTHER MATERIAL INDUCEMENT FOR DECLARANT TO SUBJECT THE PROPERTIES TO THIS DECLARATION, EACH OWNER DOES HEREBY RELEASES, WAIVES, DISCHARGES, COVENANTS NOT TO SUE, ACQUITS, SATISFIES AND FOREVER DISCHARGES DECLARANT, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS AND ITS AFFILIATES AND ASSIGNS FROM ANY AND ALL LIABILITY, CLAIMS, COUNTERCLAIM, DEFENSES, ACTIONS, CAUSES OF ACTION, SUITS, CONTROVERSIES, AGREEMENTS, PROMISES AND DEMANDS WHATSOEVER IN LAW OR IN EQUITY WHICH AN OWNER MAY HAVE IN THE FUTURE, OR WHICH ANY PERSONAL REPRESENTATIVE, SUCCESSOR, HEIR OR ASSIGN OF OWNER HEREAFTER CAN, SHALL OR MAY HAVE AGAINST DECLARANT, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS, AND ITS AFFILIATES AND ASSIGNS, FOR, UPON OR BY REASON OF ANY MATTER, CAUSE OR THING WHATSOEVER RESPECTING THIS DECLARATION, OR THE EXHIBITS HERETO. THIS RELEASE AND WAIVER IS INTENDED TO BE AS BROAD AND INCLUSIVE AS PERMITTED BY THE LAWS OF THE STATE OF FLORIDA.

18.20 Construction Activities. ALL OWNERS, OCCUPANTS, AND USERS OF THE SHORES ARE HEREBY PLACED ON NOTICE THAT DECLARANT AND/OR ITS AGENTS, CONTRACTORS, SUBCONTRACTORS, LICENSEES AND OTHER DESIGNEES WILL BE, FROM TIME TO TIME, CONDUCTING EXCAVATION, CONSTRUCTION AND OTHER ACTIVITIES WITHIN OR IN PROXIMITY TO THE SHORES. BY THE ACCEPTANCE OF THEIR DEED OR OTHER CONVEYANCE OR MORTGAGE, LEASEHOLD, LICENSE OR OTHER INTEREST, AND BY USING ANY PORTION OF THE SHORES, EACH SUCH OWNER, OCCUPANT AND USER AUTOMATICALLY ACKNOWLEDGES, STIPULATES AND AGREES (i) THAT NONE OF THE AFORESAID ACTIVITIES SHALL BE DEEMED

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NUISANCES OR NOXIOUS OR OFFENSIVE ACTIVITIES, HEREUNDER OR AT LAW GENERALLY, (ii) NOT TO ENTER UPON, OR ALLOW THEIR CHILDREN OR OTHER PERSONS UNDER THEIR CONTROL OR DIRECTION TO ENTER UPON (REGARDLESS OF WHETHER SUCH ENTRY IS A TRESPASS OR OTHERWISE) ANY PROPERTY WITHIN OR IN PROXIMITY TO THE SHORES WHERE SUCH ACTIVITY IS BEING CONDUCTED (EVEN IF NOT BEING ACTIVELY CONDUCTED AT THE TIME OF ENTRY, SUCH AS AT NIGHT OR OTHERWISE DURING NON-WORKING HOURS), (iii) DECLARANT AND THE OTHER AFORESAID RELATED PARTIES SHALL NOT BE LIABLE FOR ANY AND ALL LOSSES, DAMAGES (COMPENSATORY, CONSEQUENTIAL, PUNITIVE OR OTHERWISE) INJURIES OR DEATHS ARISING FROM OR RELATING TO THE AFORESAID ACTIVITIES, EXCEPT RESULTING DIRECTLY FROM DECLARANT'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, AND (iv) ANY PURCHASE OR USE OF ANY PORTION OF THE SHORES HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING.

18.21 Refund of Taxes and Other Charges. Unless otherwise provided herein, the Association agrees that any taxes, fees or other charges paid by Declarant to any governmental authority, utility company or any other entity which at a later date are refunded in whole or in part, shall be returned to Declarant in the event such refund is received by the Association.

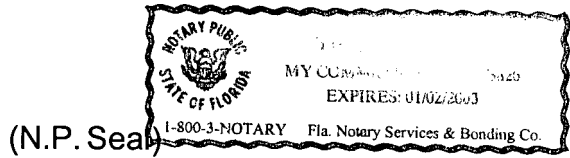
18.22 Approval of Association Lawsuits by Members. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of seventy-five (75 %) percent of the Owners. This Section shall not, however, apply to:

- 18.22.1 actions brought by Association to enforce the provisions of this Declaration, the Articles, the Bylaws and the Rules and Regulations of the Association, (including, without limitation, the foreclosure of liens or enforcement of DRB requirements);
- 18.22.2 the imposition and collection of Assessments as provided in this Declaration;
- 18.22.3 proceedings involving challenges to ad valorem taxation;
- 18.22.4 counterclaims brought by Association in proceedings instituted against it.

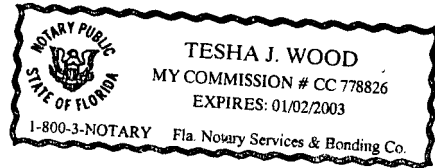
This Section shall not be amended unless the prior written approval of Declarant is obtained, which may be granted or denied in its sole discretion. The provisions of this Section 18.22 shall survive the termination of this Declaration and the termination of any interest of Declarant in



The foregoing instrument was acknowledged before me, this 4<sup>th</sup> day of January, 2000 by Walter C. Eppard as President of Florida Coast Development Corp., a Florida corporation, on behalf of the partnership. He is personally known to me or has presented \_\_\_\_\_ as identification.

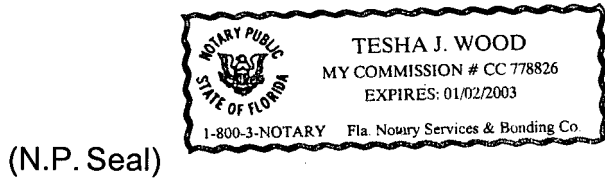


Tessa J. Wood  
 Notary Public  
 Print name: Tessa J Wood  
 My commission expires: 01/02/2003



STATE OF FLORIDA )  
 ) SS:  
 COUNTY OF SARASOTA )

The foregoing instrument was acknowledged before me, this 4<sup>th</sup> day of January, 2000 by Walt Eppard as President of The Shores at Waterlefe Homeowners Association, Inc., a Florida not-for-profit corporation, on behalf of the corporation. He is personally known to me or has presented \_\_\_\_\_ as identification.



Tessa J. Wood  
 Notary Public  
 Print name: Tessa J. Wood  
 My commission expires: 01/02/2003

BK 1672 PG 4849 54 of 94

**CONSENT AND JOINDER OF ADDITIONAL OWNERS**

Regarding the Declaration of Covenants, Restrictions  
and Easements of the Shores at Waterlefe

KNOW ALL MEN BY THESE PRESENTS:

WALT EPPARD and RENEE EPPARD, husband and wife, and DAVID S. McNABB, the owners of portions of the Properties in the foregoing Declaration of Covenants, Restrictions and Easements of the Shores at Waterlefe (the "Declaration"), hereby consent to and join Florida Coast Development Corp., Inc., a Florida corporation (the "Declarant"), subjecting the real property described therein to the provisions of the Declaration and agree that the Declaration shall be binding upon present and future owners of the real property covered by the Declaration.

Notwithstanding the execution of this consent, nothing herein shall be construed to render Walt Eppard and Renee Eppard, husband and wife, or David S. McNabb, responsible or liable for the performance of any of the covenants or undertakings of the Declarant under the Declaration.

Dated this 4<sup>th</sup> day of January, 2001.

Signed, sealed and delivered in  
the presence of:

Tesha J. Wood

Print Name: Tesha J. Wood

Marcus Helmuth

Print Name: MARCUS HELMUTH

Marcus Helmuth

Print Name: MARCUS HELMUTH

Tesha J. Wood

Print Name: Tesha J. Wood

Tesha J. Wood

Print Name: Tesha J. Wood

Marcus Helmuth

Print Name: MARCUS HELMUTH

Walt Eppard  
WALT EPPARD

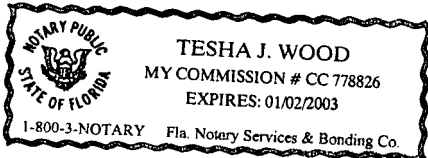
Renee Eppard  
RENEE EPPARD

David S. McNabb  
DAVID S. McNABB

BK 1672 PG 4850 55 of 94

STATE OF FLORIDA )  
 )  
COUNTY OF Sarasota )

The foregoing instrument was acknowledged before me this 4<sup>th</sup> day of January, 2001 by Walt Eppard, individually. He is personally known to me or produced \_\_\_\_\_ as identification.



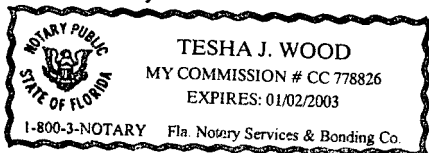
Tessa J Wood  
Name: Tessa J. Wood

Notary Public, State of Florida  
Commission No: CC 778826  
My Commission Expires:

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STATE OF FLORIDA )  
 )  
COUNTY OF Sarasota )

The foregoing instrument was acknowledged before me this 4<sup>th</sup> day of January, 2001 by Renee Eppard, individually. She is personally known to me or produced \_\_\_\_\_ as identification.

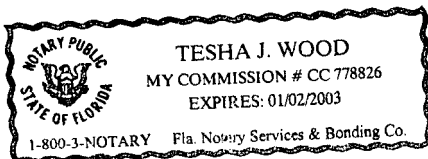


Tessa J Wood  
Name: Tessa J Wood

Notary Public, State of Florida  
Commission No: CC 778826  
My Commission Expires:

STATE OF FLORIDA )  
 )  
COUNTY OF Sarasota )

The foregoing instrument was acknowledged before me this 4<sup>th</sup> day of January, 2001 by David S. McNabb, individually. He is personally known to me or produced \_\_\_\_\_ as identification.



Tessa J Wood  
Name: Tessa J. Wood

Notary Public, State of Florida  
Commission No: CC 778826  
My Commission Expires:



**CONSENT OF MORTGAGEE**

Regarding  
the Declaration of Covenants, Restrictions and  
Easements of The Shores at Waterlefe

KNOWN ALL MEN BY THESE PRESENTS:

West Coast Guaranty Bank, N.A., a national banking association (the "Mortgagee"), the holder of that certain Mortgage and Security Agreement dated as of March 21, 2000 and recorded in Official Records Book 1631 at Page 5567 of the Public Records of Manatee County, Florida (the "Mortgage"), which Mortgage constitutes a lien upon the real property described in the foregoing Declaration of Covenants, Restrictions and Easements of The Shores at Waterlefe (the "Declaration"), hereby consents to Florida Coast Development Corp., a Florida corporation (the "Declarant"), subjecting the real property described therein to the provisions of the Declaration and agrees that the Declaration shall be binding upon present and future owners of the real property covered by the Declaration.

Notwithstanding the execution of this consent, nothing herein shall be construed to render the Mortgagee responsible or liable for the performance of any of the covenants or undertakings of the Declarant under the Declaration, nor shall this consent affect the priority of the Mortgage lien and interest of the Mortgagee.

Dated this 5 day of JANUARY, 2001.

WEST COAST GUARANTY BANK, N.A., a  
national banking association

By: [Signature]  
Title: PRESIDENT + CEO  
Name: JOSEPH D. HUDGINS

[Signature]  
Print Name: BARBARA SPRAGUE

[Signature]  
Print Name: MAGGIE ALDRED

STATE OF FLORIDA       )  
COUNTY OF SARASOTA   )

The foregoing instrument was acknowledged before me this 5 day of JAN., 2001, by JOSEPH D. HUDGINS, as PRESIDENT + CEO of WEST COAST GUARANTY BANK, N.A., a national banking association, who is personally known to me or has produced \_\_\_\_\_ as evidence of identification.



Notary Public, State of Florida  
**BARBARA SPRAGUE**  
Commission # CC 786707  
Comm. Expires Dec. 13, 2002

[Signature]  
Notary Public  
Print Name: BARBARA SPRAGUE  
My Commission Expires:

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**EXHIBITS**

EXHIBIT A

PROPERTIES

EXHIBIT B

ARTICLES

EXHIBIT C

BYLAWS

BK 1672 PG 4853 58 of 94

ACCEPTED IN OPEN SESSION  
BOARD OF COUNTY COMMISSIONERS, MANATEE COUNTY

3/27/01

EXHIBIT A

PROPERTIES

LEGAL DESCRIPTION:

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(PARCEL "A")

Being a Portion of Government Lots 7 and 8, Lying in Section 18, Township 34 South, Range 19 East, Manatee County, Florida, described as follows:

Commence at the Southeast corner of Section 18, Township 34 South, Range 19 East, Manatee County, Florida, thence N.00°31'39"E., a distance of 932.34 feet; thence N.89°28'21"W., a distance of 80.75 feet, to the POINT OF BEGINNING. Being a point on a curve to the right, having: a radius of 380.00 feet, a central angle of 33°28'28", a chord bearing of S.73°27'07"W. and a chord length of 218.87 feet; thence along the arc of said curve, an arc length of 222.01 feet to the point of reverse curvature of a curve to the left, having: a radius of 868.91 feet, a central angle of 19°00'56", a chord bearing of S.80°40'53"W. and a chord length of 287.06 feet; thence along the arc of said curve, an arc length of 288.38 feet to the point of tangency of said curve; thence S.71°10'25"W., a distance of 269.41 feet; thence S.21°10'13"E., a distance of 26.02 feet to the point of curvature of a curve to the right, having: a radius of 275.00 feet, a central angle of 16°48'21", a chord bearing of S.12°46'03"E. and a chord length of 80.37 feet; thence along the arc of said curve, an arc length of 80.66 feet to the point of tangency of said curve; thence S.04°21'52"E., a distance of 92.62 feet to the point of curvature of a curve to the left, having: a radius of 225.00 feet, a central angle of 17°13'41", a chord bearing of S.12°58'43"E. and a chord length of 67.40 feet; thence along the arc of said curve, an arc length of 67.65 feet to the point of tangency of said curve; thence S.21°35'33"E., a distance of 82.43 feet to the point of curvature of a curve to the left, having: a radius of 25.00 feet, a central angle of 84°43'08", a chord bearing of S.63°57'07"E. and a chord length of 33.69 feet; thence along the arc of said curve, an arc length of 36.97 feet to the point of tangency of said curve; thence S.73°41'19"W., a distance of 116.87 feet to a point on a curve concave Northwesterly having: a radius of 25.00 feet, a central angel of 85°41'04", a chord bearing of N.30°50'47"E. and a chord length of 34.00 feet; thence along the arc of said curve, an arc length of 37.39 feet to the point of tangency of said curve; thence N.11°59'45"W., a distance of 123.42 feet to the point of curvature of a curve to the right, having: a radius of 275.00 feet, a central angle of 07°37'53", a chord bearing of N.08°10'48"W. and a chord length of 36.60 feet; thence along the arc of said curve, an arc length of 36.63 feet to the point of tangency of said curve; thence N.04°21'52"W., a distance of 92.62 feet to the point of curvature of a curve to the left, having: a radius of 225.00 feet, a central angel of 16°48'21", a chord bearing of N.12°46'03"W. and a chord length of 65.76 feet; thence along the arc of said curve, an arc length of 66.00 feet to the point of tangency of said curve; thence N.21°10'13"W., a distance of 40.68 feet; thence S.68°49'47"W., a distance of 227.17 feet to the point of curvature of a curve to the right, having: a radius of 1466.90 feet, a central angel of 19°40'01", a chord bearing of S.78°39'47"W. and a chord length of 501.05 feet; thence along the arc of said curve, an arc length of 503.52 feet to the point of tangency of said curve; thence S.88°29'48"W., a distance of 163.04 feet to the point of curvature of a curve to the right, having: a radius of 25.00 feet, a central angle of 39°08'09", a chord bearing of N.71°56'08"W. and a chord length of 16.75 feet; thence along the arc of said curve, an arc length of 17.08 feet to the end of said curve; thence N.24°44'55"W., a distance of 163.71 feet; thence N.33°17'38"W., a distance of 222.33 feet to the point of curvature of a curve to the right, having: a radius of 150.00 feet, a central angle of 30°46'31", a chord bearing of N.17°54'23"W. and a chord length of 79.60 feet; thence along the arc of said curve, an arc length of 80.57 feet to the point of tangency of said curve; thence N.02°31'07"W., a distance of 17.81 feet; thence N.10°13'35"W., a distance of 27.41 feet; to the Mean High Water Line of Manatee River, the next twenty eight courses are along the Mean High Water Line of Manatee River. (1)thence N.85°02'34"E., a distance of 47.55 feet; (2) thence S.84°51'25"E., a distance of 336.66 feet; (3) thence N.79°52'53"E., a distance of 196.55 feet; (4) thence N.85°28'19"E., a distance of 182.26 feet; (5) thence N.57°20'53"E., a distance of 128.76 feet; (6) thence N.78°20'35"E., a distance of 96.39 feet; (7) thence S.09°09'26"E., a distance of 80.71 feet; (8) thence S.21°04'11"E., a distance of 70.26 feet; (9) thence S.64°10'58"E., a distance of 21.85 feet; (10) thence N.40.53'24"E., a distance of 44.99 feet; (11) thence N.10°43'22"W., a distance of 48.85 feet; (12) thence N.00°10'38"E., a distance of 51.21 feet; (13) thence N.14°44'08"W., a distance of 57.68 feet; (14) N.55°17'39"E., a distance of 113.04 feet; (15) thence N.69°06'04"E., a distance of 180.78 feet; (16) thence S.89°55'46"E., a distance of 68.17 feet; (17) thence N.71°59'06"E., a distance of 98.24 feet; (18) thence N.62°40'37"E., a distance of 152.38 feet; (19) thence S.30°10'19"E., a distance of 73.74 feet; (20) thence N.39°56'41"E., a distance of 39.27 feet; (21) thence N.04°08'46"E., a distance of 63.82 feet; (22) thence N.55°51'05"E., a distance of 64.27 feet; (23) thence N.16°27'56"E., a distance of 10.85 feet; (24) thence N.58°00'19"E., a distance of 70.49 feet; (25) thence N.60°14'44"E., a distance of 144.79 feet; (26) thence N.43°31'15"E., a distance of 44.36 feet; (27) thence N.04°36'09"E., a distance of 38.52 feet; (28) thence N.39°56'22"E., a distance of 24.24 feet; thence S.01°18'06"W., Leaving Said Mean High Water Line, a distance of 568.26 feet; thence S.09°08'52"W., a distance of 159.13 feet, To the Point of Beginning.

Parcel contains 896787 square feet or 20.587 acres, more or less.

ACCEPTED IN OPEN SESSION 3/27/01  
BOARD OF COUNTY COMMISSIONERS, MANATEE COUNTY

EXHIBIT "B"



FLORIDA DEPARTMENT OF STATE  
Katherine Harris  
Secretary of State

January 9, 2001

CSC NETWORKS  
1201 HAYS STREET  
TALLAHASSEE, FL 32301

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The Articles of Incorporation for THE SHORES AT WATERLEFE HOMEOWNERS ASSOCIATION, INC. were filed on January 9, 2001 and assigned document number N01000000184. Please refer to this number whenever corresponding with this office regarding the above corporation. The certification you requested is enclosed.

PLEASE NOTE: COMPLIANCE WITH THE FOLLOWING PROCEDURES IS ESSENTIAL TO MAINTAINING YOUR CORPORATE STATUS. FAILURE TO DO SO MAY RESULT IN DISSOLUTION OF YOUR CORPORATION.

A CORPORATION ANNUAL REPORT/UNIFORM BUSINESS REPORT MUST BE FILED WITH THIS OFFICE BETWEEN JANUARY 1 AND MAY 1 OF EACH YEAR BEGINNING WITH THE CALENDAR YEAR FOLLOWING THE YEAR OF THE FILING DATE NOTED ABOVE AND EACH YEAR THEREAFTER. FAILURE TO FILE THE ANNUAL REPORT/UNIFORM BUSINESS REPORT ON TIME MAY RESULT IN ADMINISTRATIVE DISSOLUTION OF YOUR CORPORATION.

A FEDERAL EMPLOYER IDENTIFICATION (FEI) NUMBER MUST BE SHOWN ON THE ANNUAL REPORT/UNIFORM BUSINESS REPORT FORM PRIOR TO ITS FILING WITH THIS OFFICE. CONTACT THE INTERNAL REVENUE SERVICE TO RECEIVE THE FEI NUMBER IN TIME TO FILE THE ANNUAL REPORT/UNIFORM BUSINESS REPORT AT 1-800-829-3676 AND REQUEST FORM SS-4.

SHOULD YOUR CORPORATE MAILING ADDRESS CHANGE, YOU MUST NOTIFY THIS OFFICE IN WRITING, TO INSURE IMPORTANT MAILINGS SUCH AS THE ANNUAL REPORT/UNIFORM BUSINESS REPORT NOTICES REACH YOU.

Should you have any questions regarding corporations, please contact this office at the address given below.

Claretha Golden, Document Specialist  
New Filings Section

Letter Number: 801A00001148

Account number: 072100000032

Amount charged: 78.75

ACCEPTED IN OPEN SESSION  
BOARD OF COUNTY COMMISSIONERS, MANATEE COUNTY

3/27/01

# State of Florida



## Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of THE SHORES AT WATERLEFE HOMEOWNERS ASSOCIATION, INC., a Florida corporation, filed on January 9, 2001, as shown by the records of this office.

The document number of this corporation is N01000000184.

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



CR2EO22 (1-99)

*Katherine Harris*

Katherine Harris  
Secretary of State

01 JAN -9 PM12: 01

**ARTICLES OF INCORPORATION**

**OF**

**THE SHORES AT WATERLEFE HOMEOWNERS ASSOCIATION, INC.**

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

**ARTICLE 1**

**NAME**

The name of the corporation is **The Shores at Waterlefe Homeowners Association, Inc.** (the "Association"). These Articles of Incorporation shall be referred to as the "Articles", and the By-Laws of the Association as the "By-Laws".

**ARTICLE 2**

**PRINCIPAL OFFICE**

The principal office and mailing address of the Association shall be at 98 Sarasota Center Boulevard, Suite D, Sarasota, Florida 34240, or at such other place as may be subsequently designated by the Board of Directors. All books and records of the Association shall be kept at its principal office or at such other place as may be designated by the Board of Directors.

**ARTICLE 3**

**DEFINITIONS**

Unless otherwise provided herein to the contrary, all terms and words utilized in these Articles shall be as defined in that certain Declaration of Covenants, Restrictions and Easements of The Shores at Waterlefe (said declaration as may be amended from time to time is hereinafter referred to as the "Declaration"), recorded or to be recorded in the Public Records of Manatee County, Florida.

**ARTICLE 4**

**PURPOSE AND POWERS OF THE ASSOCIATION**

- 4.1 This Association does not contemplate pecuniary gain or profit to the Members thereof, and the specific purposes for which it is formed are to provide for maintenance, preservation and architectural control of the Lots, Units, Common Property within that certain tract of land more particularly described in the Declaration and to promote the health, safety and welfare of the residents within the

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Properties and any additions thereto as may hereafter be brought within the jurisdiction of the Association.

4.2 The powers of the Association shall be subject to and shall be exercised in accordance with the provisions of these Articles and of the Declaration and the By-Laws. The Association shall have all of the powers and duties permitted by law, except as limited by these Articles, the By-Laws and the Declaration, and all of the powers and duties reasonably necessary to operate the Association, including, but not limited to the power 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; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;
- (c) enforce applicable provisions of the Declaration, By-Laws and rules and regulations of the Association; contract for and pay all expenses in connection with the ownership, maintenance, repair, insuring any improvement of the Common Property; to employ personnel reasonably necessary for the administration and control of the Common Property and for architectural control of the Community, including lawyers and accountants where appropriate, provided that Declarant shall not be liable for any Assessments which relate in any way to professional or other fees and expenses incurred in connection with any claims or the investigation thereof against Declarant;
- (d) acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;
- (e) borrow money, mortgage, pledge, grant a deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to any limitations in the Declaration or By-Laws;
- (f) participate in mergers and consolidations with other not for profit corporations organized for the same purposes or annex additional residential property and Common Property, provided that any such merger,

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consolidation or annexation shall have the approval of two-thirds (2/3) of each class of Members represented at a meeting in person or by proxy at which a quorum has been attained;

- (h) have and exercise any and all powers, rights and privileges which a not for profit corporation organized under the laws of the State of Florida may by law now or hereafter have or exercise;
- (i) execute all documents or consents on behalf of all Members (and their mortgagees), required by all governmental and/or quasi-governmental agencies in connection with land use and development matters (including, without limitation, plats, waivers of plat, unities of title, covenants in lieu thereof, etc.), and in that regard, each Member, by acceptance of the deed to such Member's Unit, appoints and designates the Board of Directors of the Association as such Member's agent and attorney-in-fact to execute any and all such documents or consents; and
- (j) operate any irrigation, security system or guard house serving the Properties and to operate and maintain Common Property.

4.2 All funds and the title to all properties acquired by the Association and their proceeds shall be held for the benefit and use of the Members in accordance with the provisions of the Declaration, these Articles and the By-Laws.

#### ARTICLE 5 MEMBERSHIP

Every Owner of a Lot and/or Unit which is subject to assessment by the Association, including contract sellers, shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot and/or Unit which is subject to assessment by the Association.

#### ARTICLE 6 VOTING RIGHTS

The Association shall have two (2) classes of voting members:

Class A. Class A Members shall be all Owners, with the exception of the Declarant and Declarant's Permittees. A Class A Member shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine,



but in no event shall more than one (1) vote be cast with respect to any Lot. All votes shall be exercised or cast in the manner provided by the Declaration and By-Laws. Any person or entity owning more than one Unit shall be entitled to cast the aggregate number of votes attributable to all Units owned.

Class B. The Class B Member(s) shall be Declarant and Declarant's Permittees. So long as there shall be a Class B Member, the Class B Member shall be entitled to appoint the entire Board of Directors of the Association and shall have all other preferences for voting provided in these Articles or in the By-Laws. In all matters on which Members of the Association shall be entitled to vote, the Class B Member shall have that number of votes which equals three times the total number of votes to which the Class A Members are entitled, plus one (1). The Class B membership shall cease and be converted to Class A membership on the first to occur of the following events:

(a) three months after 90 percent of the parcels in all phases of the Community that will ultimately be operated by the homeowners' Association have been conveyed to Class A Members;

(b) such other percentage of the parcels has been conveyed to members, or such other date or event has occurred, as is set forth in the "governing documents" (as such term is defined in Section 617.301 of the Florida Statutes (1998) in order to comply with the requirements of any governmentally chartered entity with regard to the mortgage financing of parcels;

(c) upon stipulation of Declarant and Declarant's Permittees upon recording a notice of same in the Public Records of Manatee County; or

(d) December 31, 2015.

From and after the happening of these events, whichever occurs first, the Class B Members shall be deemed Class A Members entitled to one (1) vote for each Lot in which they hold the interest required for membership. Declarant and Declarant's Permittees shall be entitled to elect at least one Director as long as Declarant and Declarant's Permittees holds for sale in the ordinary course of business at least 5 percent of the Lots in all phases of the Community.

## ARTICLE 7 BOARD OF DIRECTORS

7.1 Number and Qualification. The property, business and affairs of the Association shall be managed by a board consisting of the number of Directors determined in the manner provided by the By-Laws, but which shall consist of not less than three (3) Directors.

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- 7.2 Duties and Powers. All of the duties and powers of the Association existing under the Declaration, these Articles and the By-Laws shall be exercised exclusively by the Board of Directors, its agents, contractors or employees, subject only to approval by Members when such approval is specifically required.
- 7.3 Election; Removal. Directors of the Association shall be elected at the annual meeting of the members in the manner, for the term and subject to the qualifications set forth in the By-Laws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the By-Laws. Notwithstanding the foregoing provisions of this Section 7.3, Directors to be appointed by Declarant or Declarant's Permittees may be appointed by written designation of Declarant or Declarant's Permittees, as may be the case. Such director(s) may only be removed by Declarant or the Declarant's Permittees entitled to appoint the respective Director.
- 7.4 First Directors. The names and addresses of the members of the first Board of Directors who shall hold office until their successors are elected and have taken office, as provided in the By-Laws, are as follows:

<u>NAME</u>	<u>ADDRESS</u>
Walt Eppard	98 Sarasota Center Boulevard
Rene Eppard	Suite D
David S. McNabb	Sarasota, Florida 34240
	(for all three)

- 7.5 Standards. Unless a Director has knowledge concerning a matter in question that makes reliance unwarranted, a Director, in discharging his duties, may rely on information, opinions, reports or statements, including financial statements and other data, if prepared or presented by: one or more officers or employees of the Association whom the Director reasonably believes to be reasonable and competent in the manners presented; legal counsel, public accountants or other persons as to matters the Director reasonably believes are within the persons' professional or expert competence; or a Committee if the Director reasonably believes the Committee merits confidence. A Director is not liable for any action taken as a Director, or any failure to take action, if he performed the duties of his office in compliance with the foregoing standards.

**ARTICLE 8**  
**OFFICERS**

The affairs of the Association shall be administered by the officers holding the offices designated in the By-Laws. The officers shall be elected by the Board of Directors of the Association at its first meeting following the annual meeting of the members of the Association and shall serve at the pleasure of the Board of Directors. The By-Laws may provide for the removal from office of officers, for filling vacancies and for the duties and qualifications of the officers.

**ARTICLE 9**  
**DISSOLUTION**

The Association may be dissolved with the approval of two-thirds (2/3) of each class of Members represented at a meeting in person or by proxy at which a quorum has been attained. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association (including, without limitation, the surface water management system) shall be dedicated or conveyed to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication or conveyance is refused, such assets shall be granted, conveyed and assigned to any not for profit corporation, Association, trust or other organization devoted to such similar purposes.

**ARTICLE 10**  
**DURATION**

The Association shall exist perpetually.

**ARTICLE 11**  
**INCORPORATOR**

The incorporator is Bruce P. Chapnick, Esq., whose address is 2033 Main Street, Suite 600, Sarasota, Florida 34237.

**ARTICLE 12**  
**AMENDMENTS**

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

- 12.1 Notice. Notice of a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered and shall be otherwise given in the time and manner provided in Chapter 617, Florida

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Statutes. Such notice shall contain the proposed amendment or a summary of the changes to be affected thereby.

- 12.2 Adoption. Amendment of these Articles shall require the approval of two-thirds (2/3) of each class of Members represented at a meeting in person or by proxy at which a quorum has been attained. Amendment of these Articles may be proposed by the Board of Directors and shall be voted on at a Special Meeting of the Members duly called for that purpose, or at an annual meeting of the Members; provided, however, the foregoing requirement as to a meeting of the Members shall not be construed to prevent the Members from waiving notice of a meeting; provided further, if Members (and/or persons holding valid proxies) with not less than two-thirds (2/3) of each class of Members sign a written consent manifesting their intent that an Amendment to these Articles be adopted, then such Amendment shall thereby be adopted as though proposed by the Board of Directors and voted on at a meeting of the membership as hereinabove provided.
- 12.3 Limitation. No amendment shall make any changes in the qualifications for membership, nor in the voting rights or property rights of members, without the approval of two-thirds (2/3) of each class of Members represented at a meeting in person or by proxy at which a quorum has been attained. All amendments to these Articles other than the foregoing shall require the approval of a majority of the voting interests of each class of Members represented at a meeting in person or by proxy at which a quorum has been attained.
- 12.4 Declarant Amendments. To the extent lawful, the Declarant may amend these Articles consistent with the provisions of the Declaration allowing certain amendments to be effected by the Declarant alone.
- 12.5 Recording. A copy of each amendment shall be filed with the Secretary of State pursuant to the provisions of applicable Florida law, and a copy certified by the Secretary of State shall be recorded in the public records of Manatee County, Florida with a specific reference to the book and page of the Public Records where the Declaration was recorded which contained, as an exhibit, the initial recording of these Articles.

**ARTICLE 13**  
**BYLAWS**

The first By-Laws of the Association shall be adopted by the Board of Directors and may be altered, amended or rescinded in the manner provided in the By-Laws and the Declaration.

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**ARTICLE 14**  
**INDEMNIFICATION**

- 14.1 Indemnitees. The Association shall indemnify any person who was or is a party to any proceeding (other than an action by the Association) by reason of the fact that he is or was a Director, officer, committee member, employer or agent (each, an "Indemnitee") of the Association against liability incurred in connection with such proceeding, including any appeal thereof, if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any proceeding by judgment, order, settlement, or conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in, or not opposed to, the best interests of the Association.
- 14.2 Indemnification. The Association shall indemnify any person who was or is a party to any proceeding by the Association to procure a judgment in its favor by reason of the fact that he is or was a Director, officer, committee member, employee, or agent of the Association against expenses and amounts paid in settlement not exceeding, in the judgment of the Board of Directors, the estimated expense of litigating the proceeding to conclusion, actually and reasonably incurred in connection with the defense or settlement of such proceeding, including any appeal thereof. Such indemnification shall be authorized if such person acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Association, except that no indemnification shall be made under this Section in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable unless, and only to the extent that, the court in which such proceeding was brought, or any other court of competent jurisdiction shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expenses which such court shall deem proper.
- 14.3 Indemnification for Expenses. To the extent that a Director, officer, committee member, employee, or agent of the Association has been successful on the merits or otherwise in defense of any proceeding referred to in Section 14.1 or 14.2, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses actually and reasonably incurred by him in connection therewith.

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14.4 Determination of Applicability. Any indemnification under Section 14.1 or Section 14.2, unless pursuant to a determination by a court, shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the Director, officer, committee member, employee, or agent is proper under the circumstances because he has met the applicable standard of conduct set forth in Section 14.1 or Section 14.2. Such determination shall be made:

- (a) by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to such proceeding;
- (b) if such a quorum is not obtainable, by majority vote of a Committee duly designated by the Board of Directors (in which Directors who are parties may vote on the members of the Committee) consisting solely of two or more Directors who are not at the time parties to the proceeding;
- (c) by independent legal counsel selected:
  - 1. by the Board of Directors prescribed in paragraph (a) or the Committee prescribed in paragraph (b); or
  - 2. if a quorum of the Directors cannot be obtained for paragraph (a) and the Committee cannot be designated under paragraph (b), then by a majority of the voting interests of the Voting Members of the Association who were not parties to such proceeding.

14.4 Advancing Expenses. Expenses incurred by an officer or Director in defending a civil or criminal proceeding may be paid by the Association in advance of the final disposition of such proceeding upon receipt of an undertaking by or on behalf of such Director or officer to repay such amount if he is ultimately found not to be entitled to indemnification by the Association pursuant to this section. Expenses incurred by other employees and agents may be paid in advance upon such terms or conditions that the Board of Directors deems appropriate.

14.5 Exclusivity; Exclusions. The indemnification and advancement of expenses provided pursuant to this Article 14 are not exclusive, and the Association may make any other or further indemnification or advancement of expenses of any of its Directors, officers, employees, or agents, under any bylaw, agreement, vote of Members or disinterested Directors, or otherwise. However, indemnification or advancement of expenses shall not be made to

or on behalf of any Director, officer, committee member, employee, or agent if a judgment or other final adjudication establishes that his actions, or omissions to act, were material to the cause of action so adjudicated and constitute:

- (a) A violation of the criminal law, unless the Director, officer, committee member, employee, or agent had reasonable cause to believe his conduct was lawful or had no reasonable cause to believe his conduct was unlawful;
- (b) A transaction from which the Director, officer, committee member, employee, or agent derived an improper personal benefit; or
- (c) Willful misconduct or a conscious disregard for the best interests of the Association in a proceeding by or in the right of the Association to procure a judgment in its favor or in a proceeding by or in the right of the members of the Association.

14.6 Continuing Effect. Indemnification and advancement of expenses as provided in this Article 14 shall continue to a person who has ceased to be a Director, officer, committee member, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of such a person, unless otherwise provided when authorized or ratified.

14.7 Definitions. For purposes of this Article 14, the term "expenses" shall be deemed to include attorneys' fees, including those for any appeals; the term "liability" shall be deemed to include obligations to pay a judgment, settlement, penalty, fine, and expenses actually and reasonably incurred with respect to a proceeding; the term "proceeding" shall be deemed to include any threatened, pending, or completed action, suit, or other type of proceeding, whether civil, criminal, administrative or investigative, and whether formal or informal; and the term "agent" shall be deemed to include a volunteer.


14.8 Amendment. Anything to the contrary herein notwithstanding, no amendment to the provision of this Article 14 shall be applicable as to any party eligible for indemnification hereunder who has not given his prior written consent to such amendment.

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**ARTICLE 15**  
**INITIAL REGISTERED AGENT**

Walt Eppard, whose address is 98 Sarasota Center Boulevard, Suite D, Sarasota, Florida 34240, is hereby appointed the initial registered agent of this Association.


**IN WITNESS WHEREOF**, for the purpose of forming this corporation under the laws of the State of Florida, the undersigned, constituting the incorporator of this Association, has executed these Articles of Incorporation this 5 day of January, 2001.

  
Bruce P. Chapnick, Incorporator

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STATE OF FLORIDA                    )  
  ) SS.  
COUNTY OF SARASOTA            )

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of January, 2001, by Bruce P. Chapnick, who is personally known to me or has produced \_\_\_\_\_ as identification.

  
(Notary Signature)

Talia R Kohne  
(Notary Name Printed)  
Notary Public  
Commission No: \_\_\_\_\_

(NOTARY SEAL)



Talia R. Kohne  
MY COMMISSION # CC732158 EXPIRES  
April 8, 2002  
BONDED THRU TROY FAIN INSURANCE, INC.

**REGISTERED AGENT CERTIFICATE**

In pursuance of the Florida Not For Profit Corporation Act, the following is submitted, in compliance with said statute:

That The Shores at Waterlefe Homeowners Association, Inc., desiring to organize under the laws of the State of Florida, with its registered office, as indicated in the Articles of Incorporation at Sarasota County, Florida, has named Walt Eppard, whose address 98 Sarasota Center Boulevard, Suite D, Sarasota, Florida 34240, as its registered agent to accept service of process and perform such other duties as are required in the State.





**EXHIBIT "C"**

**BY-LAWS**

OF

THE SHORES AT WATERLEFE  
HOMEOWNERS ASSOCIATION, INC.

*A corporation not for profit organized  
under the laws of the State of Florida*

**1 GENERAL**

- 1.1 Identity. These are the By-Laws of The Shores at Waterlefe Homeowners Association, Inc., a Florida not for profit corporation (the "Association"), organized for the purposes set forth in its Articles of Incorporation. Until changed, the principal office of the Association shall be located in Manatee County, Florida.
- 1.2 Seal. The seal of the Association shall bear the name of the corporation.
- 1.3 Definitions. For convenience, these By-Laws shall be referred to as the "By-Laws" and the Articles of Incorporation of the Association as the "Articles". The terms used in these By-Laws shall have the same definitions and meanings as those set forth in the Declaration of Covenants, Restrictions and Easements for The Shores at Waterlefe (the "Declaration"), to be recorded in the Public Records of Manatee County, Florida, unless herein provided to the contrary, or unless the context otherwise requires. The term "Governing Documents" means the Declaration, the Articles, these By-Laws, the rules and regulations of the Association and all duly authorized and recorded amendments, supplements, and recorded exhibits to any of the foregoing.
- 1.4 Applicability. The provisions of these By-Laws are applicable to the neighborhood known as The Shores at Waterlefe, located in Manatee, County, Florida.
- 1.5 Qualification for Membership. All Owners of record of a Lot and/or Unit shall be members of the Association. Accordingly, membership in the Association may be transferred only as an incident to the transfer of the transferor's Lot and/or Unit. Transfer of ownership of a Lot and/or Unit, either voluntarily or by operation of law, shall automatically terminate membership, and the transferee shall automatically become a Member of the Association.
- 1.6 Fiscal Year. The fiscal year of the Association shall be determined by the Board of Directors and having been so determined, is subject to change from time to time as the Board of

ACCEPTED IN OPEN SESSION 3/27/01  
BOARD OF COUNTY COMMISSIONERS, MANATEE COUNTY

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Directors shall determine. In the absence of a specific determination, the fiscal year shall be the calendar year.

## 2 VOTING RIGHTS, MAJORITY, QUORUM, PROXIES

- 2.1 Voting Rights. The Association shall have two (2) classes of Members and weighted voting, as provided in the Declaration and Articles.
- 2.2 Majority Vote. The acts approved by a "majority of the Voting Members (as subsequently defined) shall be binding upon all Members for all purposes, except where otherwise provided by law or the Governing Documents. As used in the Governing Documents, the terms "majority of the Owners" and "majority of the Voting Members" shall mean a majority of the votes entitled to be cast by the Voting Members present in person or by proxy at any duly called meeting of the Members at which a quorum shall have been attained and shall not mean a majority of the Voting Members themselves. Similarly, if some greater percentage of Voting Members is required in any Governing Document, it shall mean such greater percentage of the votes of Voting Members and not of the Voting Members themselves.
- 2.3 Quorum. Except as otherwise provided in these By-Laws, a quorum of Members shall be attained by the presence, either in person or by proxy (limited or general), of Voting Members entitled to cast at least 30% of the total votes of the Members at a duly called meeting of the Members. As long as there is a Class "B" Member, no quorum can exist or be attained unless the Class "B" Member is present or the Class "B" Member has waived, in writing, its presence. After a quorum is established at a duly called meeting, Voting Members may continue to accomplish the business of the meeting until adjournment, notwithstanding the withdrawal during the meeting of enough Class "A" Voting Members to leave less than a quorum. In the event, however, the required quorum is never present, the meeting may be rescheduled subject to the notice requirements set forth herein.
- 2.4 Proxies. Votes of Voting Members can be cast in person or by proxy. Proxies must be in writing and filed with the Secretary at least twenty-four (24) hours before the appointed time of each meeting. Every proxy shall be revocable, but shall continue as valid until so revoked or until it terminates.
- 2.5 Fixing Record Date. For the purpose of determining those Members entitled to notice of or to vote at any meeting of Members, or in order to make a determination of Members for any other purpose, the Board of Directors shall fix in advance a date as the record date for such determination ("Record Date"). The Record Date shall not be more than seventy (70) days prior to the date on which the particular action requiring such determination of Members is to be taken. When a determination of Members entitled to vote at any meeting has been made as provided in this section, such determination shall apply to any adjournment thereof, unless the Board of Directors fixes a new Record Date for the adjourned meeting, which it must do if the meeting is more than 90 days after the date fixed for the original meeting.

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- 2.6 Roster of Owners. Each Member shall deliver to the Association a copy of the deed or other evidence of ownership of the Member's Lot. Based on this information, the Association shall maintain a roster of Members, their Lot and/or Unit numbers, addresses and telephone numbers, if known. The Association may rely upon the accuracy of such information for all purposes until notified in writing of any changes in the identity of the Member or the Member's address. Only Members reflected on the membership roster as of the Record Date shall be entitled to notice of and to vote at a meeting, unless prior to such meeting the Member shall produce adequate evidence of ownership of a Lot and/or Unit and shall waive in writing notice of such meeting.
- 2.7 Voting Member. The record ownership of each Lot and/or Unit shall be established by reference to the membership roster as of the Record Date for purposes of determining the Voting Member with respect to that Lot and/or Unit. If a Lot and/or Unit is owned by one person, that person shall be deemed to be the Voting Member for such Lot and/or Unit. If a Lot and/or Unit is owned by more than one person (including husbands and wives), those persons shall decide among themselves who shall act as the Voting Member for the Lot and/or Unit and the Voting Member shall be designated in a certificate signed by all record owners and filed with the Association. In the event that those persons cannot so decide, they may elect either to file a certificate in the foregoing manner or to be governed by the terms of Section 2.8. If a Lot and/or Unit is owned by a corporation, general partnership, limited partnership or trust, the Voting Member shall be designated in a certificate signed by the corporation's president or vice president, all of the general partnership's partners, all of the limited partnership's general partners, or all of the trust's trustees, as the case may be. The certificate shall be filed with the Secretary of the Association. Those certificates shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the Lot and/or Unit concerned. A certificate designating the person entitled to cast the vote for a Lot and/or Unit may be revoked by any record owner of an undivided interest in the Lot and/or Unit.
- 2.8 Failure to File Certificate Designating the Voting Member.
- 2.8.1 Generally. If the record owner of a Unit (other than the Declarant) was required but failed to file a certificate as provided in Section 2.7, such Owner shall not be considered the Voting Member for purposes of determining whether a quorum has been attained at the meeting, nor shall such Owner be permitted to vote at meetings of the Members on any issue.
- 2.8.2 Voting by Co-Owners. If a Lot and/or Unit is owned by more than one person and the co-owners have elected not to file a certificate designating one of them as a Voting Member, the presence (in person or by proxy) of any one or all of them at a meeting of the Members shall be considered to be the presence of a Voting Member for purposes of determining whether a quorum has been attained at the meeting. If a dispute arises between the co-owners as to how the vote shall be cast, they shall lose

the right to cast their vote on the matter being voted upon, but their vote shall be continued to be counted for the purpose of determining the existence of a quorum.

### 3 MEETINGS OF MEMBERS

- 3.1 Place of Meetings of Members. Meetings of the Members shall be held in a suitable place in Manatee County as shall be designated by the Board of Directors.
- 3.2 Annual Meeting of Members. The annual meeting of the Members shall be held on the date, at the place and at the time determined by the Board of Directors from time to time, provided that there shall be an annual meeting every calendar year and, to the extent possible, no later than thirteen (13) months after the last preceding annual meeting. The purpose of the meeting shall be, except as provided in these By-Laws to the contrary, to elect Directors, and to transact any other business authorized to be transacted by the Members, or as stated in the notice of the meeting sent to the Members in advance thereof. Unless changed by the Board of Directors, the first annual meeting shall be held in the month of March following the year in which the Association is incorporated.
- 3.3 Special Meetings of Members. Special meetings of the Members may be called at any time by the President or a majority of a quorum of the Board of Directors, or upon a petition signed by Voting Members holding at least thirty (30%) percent of the votes of the Voting Members. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.
- 3.4 Notice of Meetings of Members. Notice of a meeting of the Members (annual or special), stating the time and place and the purpose(s) for which the meeting is called, shall be given by the President or Secretary. A copy of the notice shall be posted at a conspicuous place designated by the Board. The notice of the annual meeting shall be hand delivered or sent by regular mail to each Member, unless the Member waives in writing the right to receive notice of the annual meeting by mail. The delivery or mailing shall be to the address of the Member as it appears on the roster of Members. Where a Lot and/or Unit is owned by more than one person, the Association shall provide notice for meetings and all other purposes to that one address initially identified for that purpose by the Developer and thereafter as one or more of the Owners of the Lot and/or Unit shall so advise the Association in writing, or if no address is given or if the Members disagree, notice shall be sent to the address for the Member as set forth on the deed of the Lot and/or Unit. The posting and mailing of the notice for either special or annual meetings, which notice shall incorporate an identification of agenda items, shall be effected not less than fourteen (14) continuous days, nor more than sixty (60) days, prior to the date of the meeting. The Board shall adopt by rule, and give notice to Members of, a specific location upon which all notices of Members' meetings shall be posted.

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Notice of specific meetings may be waived before or after the meeting. The attendance of any Member (or person authorized to vote for such Member), either in person or by proxy, shall constitute such Member's waiver of notice of such meeting, and waiver of any and all objections to the place of the meeting, the time of the meeting or the manner in which it has been called or convened, except when the Member's (or the Member's authorized representative's) attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

An officer of the Association or the manager or other person providing notice of the meeting shall provide an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the Association, affirming that notices of meetings were posted and mailed or hand delivered in accordance with this Section to each Member at the appropriate address for such Member. No other proof of notice of a meeting shall be required.

3.5 Adjourned Meetings. If any meeting of the Members cannot be organized because a quorum has not been achieved, the Voting Members who are present, either in person or by proxy, may adjourn the meeting to a time not less than five (5) days, nor more than thirty (30) days, from the time the original meeting was called. Such adjourned meetings may be held only upon a new notice thereof as provided in this Article, except that notice shall be given by announcement at the meeting at which such adjournment is taken. If a meeting is adjourned for more than thirty (30) days, notice of the adjourned meeting shall be given as in the case of an original meeting.

3.6 Action Without A Meeting. To the extent lawful, any action required or which may be taken at any annual or special meeting of Members, may be taken without a meeting, without prior notice and without a vote if a consent in writing, setting forth the action so taken, shall be signed by Voting Members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting of Members at which all Voting Members (or authorized persons) entitled to vote thereon were present and voted. In order to be effective, the action must be evidenced by one or more written consents describing the action taken, dated and signed by approving Voting Members having the requisite number of votes and entitled to vote on such action, and delivered to the Secretary of the Association or other authorized agent of the Association. Written consent shall not be effective unless consents in the appropriate form have been signed by Voting Members having the requisite number of votes necessary to authorize the action within sixty (60) days of the date of the earliest dated consent relied upon to meet such requirements and delivered to the Association as aforesaid. Any written consent may be revoked prior to the date the Association receives the required number of consents to authorize the proposed action. A revocation is not effective unless in writing and until received by the Secretary of the Association, or other authorized agent of the Association. Within ten (10) days after obtaining such authorization by written consent, notice must be given to all Owners. The notice shall attach a copy of the written consent and shall fairly summarize the material features of the authorized action. A consent signed in accordance with the foregoing has the effect of a meeting vote and may be

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described as such in any document. As long as there is a Class "B" Member, no action can be taken by written consent unless the Class "B" Member has given its written consent.

3.7 Minutes, Presumption of Notice. Minutes or a similar record of the proceedings of meetings of Members, when signed by the President or Secretary, shall be presumed to be accurate evidence of the matters set forth therein. A recitation in the minutes of any such meeting that notice of the meeting was properly given shall be prima facie evidence that such notice was given.

3.8 Participation by Members. Subject to the following and such further reasonable restrictions as may be adopted from time to time by the Board, Members shall have the right to speak at the annual and special meetings of the Association, committee meetings and Board meetings with reference to all designated agenda items. A Member shall not have the right to speak with respect to items not specifically designated on the agenda; provided, however, that the Board may permit a Member to speak on such items in its discretion. Every Member who desires to speak at a meeting, may do so, provided that the Member has filed a written request with the Secretary of the Association not less than 24 hours prior to the scheduled time for commencement of the meeting. Unless waived by the chairman of the meeting (which may be done in the chairman's sole and absolute discretion and without being deemed to constitute a waiver as to any other subsequent speakers), all Members speaking at a meeting shall be limited to a maximum of five (5) minutes per speaker. Any Member may tape record or videotape a meeting, subject to the following and such further reasonable restrictions as may be adopted from time to time by the Board:

3.8.1 The only audio and video equipment and devices which Members are authorized to utilize at any such meeting is equipment which does not produce distracting sound, light or heat emissions;

3.8.2 Audio and video equipment shall be assembled and placed in position in advance of the commencement of the meeting.

3.8.3 Anyone videotaping or recording a meeting shall not be permitted to move about the meeting room in order to facilitate the recording.

#### 4 BOARD OF DIRECTORS

4.1 Number, Term and Qualification. The affairs of the Association shall be governed by a Board of Directors composed of not less than three (3) nor more than seven (7) persons, as is determined from time to time by a majority of the Voting Members. Directors must be natural persons who are 18 years of age or older. All directors, except those designated by the Declarant, shall be Members of the Association. Any officer of a corporate Owner shall be entitled to act as a Director if so elected and shall be deemed to be a Member of the Association so as to qualify as a director herein. Initially, the Board of Directors shall be composed of three (3) persons. Directors appointed or elected by the Declarant shall serve for

a term of one (1) year thereafter or until such Director's successor is duly elected or appointed. At the first election of directors where the Class "A" Members are entitled to elect a majority of the directors, the size of the Board of Directors shall be increased to five (5) directors and the directors shall be elected for staggered terms as follows: (a) the three (3) candidates receiving the highest, second highest and third highest number of votes shall each be elected as directors for a term of two (2) years; (b) any remaining vacancies shall be filled by the candidates receiving the next highest number of votes, which director(s) shall each be elected for a term of one (1) year. At each annual election held thereafter, directors chosen to succeed those whose terms expire shall be elected for a term of two (2) years. Except as provided herein to the contrary, the term of each director's service shall extend until the next annual meeting of the Members and subsequently until his successor is duly elected and has taken office, or until he is removed in the manner elsewhere provided. Any person serving as a director may be re-elected, and there shall be no limitation on the number of terms during which he may serve. The conveyance of all Lots and/or Units owned by any director (except directors appointed by Declarant or other directors who are not Owners) shall result in the automatic resignation of such director. Notwithstanding the foregoing, any director designated by the Developer shall serve at the pleasure of the Developer and may be removed and replaced by the Developer at any time.

- 4.2 Election and Term of Office. Except as to Directors designated by the Declarant, Directors shall be elected by written ballot by a majority of Voting Members at the annual meeting of the Members, as provided in these By-Laws. Each Voting Member shall be entitled to cast his votes for each of as many nominees as there are vacancies to be filled. There shall be no cumulative voting. In the event that an annual meeting is not held, or the Board is not then elected, the Board may be elected at a special meeting of the Members held for that purpose.
- 4.3 Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a director by a vote of the Voting Members of the Association shall be filled by vote of the majority of the remaining directors, even though they may constitute less than a quorum; and each person so elected shall be a director until a successor is elected at the next annual meeting of the Members of the Association, or at a special meeting of the Members called for that purpose. A vacancy or vacancies shall be deemed to exist in case of death, resignation, removal or judicial adjudication of mental incompetence of any director, increases in the size of the Board or in case the Voting Members fail to elect the full number of authorized directors at any meeting at which such election is to take place. Notwithstanding the foregoing, this Section shall not apply to any Director entitled to be appointed by Declarant or a vacancy created with respect to a Director's seat held by a person appointed by Declarant. In all such cases, the Declarant shall be entitled to appoint the Director in question, subject to the provisions of Section 4.15.
- 4.4 Removal of Directors. Any one or more of the directors (other than Declarant's designees) may be removed with or without cause by a majority vote of the Voting Members of the Association, provided the following procedures are followed:



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- 4.4.1 A recall meeting may be called at any time by the President or a majority of a quorum of the Board of Directors or upon a petition signed by Voting Members holding at least thirty (30%) percent of the votes of the Voting Members.
- 4.4.2 Written notice of the recall meeting shall be mailed or delivered not less than 14 days or more than 60 days from the date when the recall meeting is scheduled. The recall meeting notice shall:
  - 4.4.2.1 State that the purpose of the meeting is to recall one or more members of the Board of Directors and, if a majority or more of the Board of Directors is subject to recall, the notice shall also state that an election to replace any recalled board members will be conducted at the meeting;
  - 4.4.2.2 List by name each director sought to be recalled at the meeting, even if every director is sought to be recalled;
  - 4.4.2.3 Specify a person, other than a director subject to recall at the meeting, who shall determine whether a quorum is present, call the meeting to order and preside at it;
  - 4.4.2.4 List at least as many eligible persons who are willing to be candidates for replacement directors as there are directors sought to be recalled, in those cases where a majority or more of the Board of Directors is sought to be recalled. Candidates for replacement board members shall not be listed when a minority of the Board is sought to be recalled, as the remaining directors of the board may appoint replacements. In addition, the notice must state that nominations for replacement directors may be taken from the floor at the meeting;
  - 4.4.2.5 Have attached to it proof of compliance with the provisions of paragraph 4.4.1 above; and
  - 4.4.2.6 Be mailed or delivered to the Board of Directors at least 14 days prior to the recall meeting. The notice shall become an official record of the association upon actual receipt by the Board.

- 4.4.3 Any director whose removal has been proposed shall be given an opportunity to be heard at the meeting. A separate vote shall be required for each board member sought to be removed. The minutes of the recall meeting shall include at a minimum the following: record the vote count taken on each member of the board sought to be recalled; state whether the recall was effective as to each director sought to be recalled; record the vote count taken on each candidate to replace the directors subject to recall and, if applicable, the specific seat each replacement director was elected to, in those cases where a majority or more of the existing board was subject to recall. The minutes shall be delivered to the Board of Directors and, upon such delivery to the Board, become an official record of the Association.
  
- 4.4.4 When one or more directors have been removed at a meeting of the Members, the following provisions apply regarding the filling of vacancies on the Board of Directors:
  - 4.4.4.1 If less than a majority of the existing Board is recalled at the meeting, no election of replacement directors shall be conducted at the Members' meeting as the existing Board of Directors may, in its discretion, fill these vacancies by the affirmative vote of the remaining directors. In the alternative, if less than a majority of the existing Board of Directors is recalled at the meeting, the Board may call and conduct an election to fill a vacancy or vacancies;
  
  - 4.4.4.2 If a majority or more of the existing Board of Directors is recalled at the meeting, an election shall be conducted at the recall meeting to fill vacancies on the Board occurring as a result of recall. The Members, by a majority vote of the Voting Members, may vote to elect replacement directors in a number equal to the number of recalled directors.
  
  - 4.4.4.3 A director appointed or elected pursuant to this section 4.4 shall fill the vacancy until the next regularly scheduled election for any board position, regardless of whether the board position to which the director was appointed or elected is scheduled to be filled at that election.
  
  - 4.4.4.4 Any director who is removed from the board shall not be eligible to stand for reelection or appointment to the board until the next annual meeting of the Members.
  
  - 4.4.4.5 Any director removed from office shall turn over to the Board of Directors within 72 hours any and all records of the Association in his possession.
  
- 4.5 Organizational Meeting. The organizational meeting of newly-elected or appointed directors shall be held within thirty (30) days of their election or appointment.
  
- 4.6 Meetings. Regular meetings of the Board of Directors may be held at such time and place as

shall be determined, from time to time, by a majority of the directors. Special meetings of the directors may be called by the President, and must be called by the President or Secretary at the written request of one-third (1/3) of the directors. Notice of all meetings shall be given to each director, personally or by mail, telephone or facsimile and shall be transmitted at least three (3) days prior to the meeting. Adequate notice of such meetings, which notice shall specifically incorporate an identification of agenda items, shall be posted conspicuously in the place designated by the Board of Directors at least forty-eight (48) continuous hours preceding the meeting, except in the event of an emergency. Meetings of the Board of Directors and any committee thereof at which a quorum of the members of that committee are present shall be open to all Members. The right to attend such meetings includes the right to speak at such meetings with respect to all designated agenda items. The Association may adopt reasonable rules governing the frequency, duration and manner of Member statements. The Board shall adopt by rule, and give notice to the Members of, a specific location upon which all notices of Board and/or committee meetings shall be posted. Directors may not vote at Board meetings by proxy or by secret ballot.

- 4.7 Waiver of Notice. Any director may waive notice of a meeting before or after the meeting and that waiver shall be deemed equivalent to the due receipt by said director of notice. Attendance by any director at a meeting shall constitute a waiver of notice of such meeting, and a waiver of any and all objections to the place of the meeting, to the time of the meeting or the manner in which it has been called or convened, except when a director states at the beginning of the meeting, or promptly upon arrival at the meeting, any objection to the transaction of affairs because the meeting is not lawfully called or convened. The transactions at any meeting of the Board, however called and noticed or wherever held, shall be as valid as through had at a meeting duly held after regular call and notice, if a quorum be present, and if, either before or after the meeting, each of the directors not present signs such written waiver of notice, a consent to holding such meeting, or an approval of the minutes thereof. All such waivers, consents and approvals shall be filed with the records of the Association or made a part of the minutes of the meeting.
- 4.8 Quorum. A quorum at a Board of Directors' meeting shall consist of a majority of the entire Board. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except when approval by a greater number of directors is specifically required by the Governing Documents.
- 4.9 Adjourned Meetings. If, at any proposed meeting of the Board of Directors, there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present, provided notice of such newly scheduled meeting is given as required hereunder. At any newly scheduled meeting, any business that might have been transacted at the meeting as originally called may be transacted as long as notice of such business to be conducted at the rescheduled meeting is given, if required.
- 4.10 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 approval of that director of the business conducted at the meeting, but such joinder shall not allow the

applicable director to be counted as being present for purposes of quorum.

- 4.11 Presiding Officer. The presiding officer at the directors' meeting shall be the President (who may, however, designate any other officer to preside).
- 4.12 Action Without Meeting. Subject to applicable law, the directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the vote or written consent of all directors. Any action so approved shall have the same effect as though taken at a duly constituted meeting of the Directors.
- 4.13 Committees. The Board may by resolution also create committees and appoint persons to such committees and vest in such committees such powers and responsibilities as the Board shall deem advisable. The resolution establishing a committee shall appoint its members, as well as a chair, state the purposes of the committee, and provide for reports, termination and other administrative matters as deemed appropriate by the Board.
- 4.14 Minutes of Meetings. The minutes of all meetings of the Board of Directors shall be kept in a book available for inspection by Members, or their authorized representatives, and Board members at any reasonable time. The vote or abstention of each director on each issue voted on by the Board at a meeting shall be reflected in the minutes of such meeting. The Association shall retain these minutes for a period of not less than seven (7) years.
- 4.15 Proviso. Notwithstanding anything to the contrary contained in this Article 4 or otherwise, the Board shall consist of three directors during the period that the Declarant is entitled to appoint the directors, as provided below. The Declarant shall have the right to appoint all of the members of the Board of Directors until the Class "B" Membership terminates as set forth in the Declaration and Articles. The Declarant is entitled (but not obligated) to elect at least one (1) member of the Board of Directors as long as the Declarant (including its assigns and successors) holds for sale in the ordinary course of business at least five (5%) percent of the Lots and or Units that will be operated ultimately by the Association.

The Declarant may transfer control of the Association to the Class "A" Members prior to the date set forth in the Declaration and Articles for termination of the Class "B" Membership in its sole discretion by causing enough of its appointed directors to resign, whereupon it shall be the affirmative obligation of Class "A" Members to elect directors and assume control of the Association. Provided at least thirty (30) days' notice of Declarant's decision to cause its appointees to resign is given to the Members, neither the Declarant, nor such appointees, shall be liable in any manner in connection with such resignations even if the Class "A" Members refuse or fail to assume control.

- 4.16 Emergency Powers . In the event of an "emergency" as defined in Section 4.16.7 below, the Board of Directors of the Association may exercise the emergency powers described in this Section 4.16, and any other emergency powers authorized by Sections 617.0207 and 617.0303, Florida Statutes, as amended from time to time.

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- 4.16.1 The Board may name as assistant officers persons, which assistant officers shall have the same authority as the executive officers to whom they are assistant during the period of the emergency, to accommodate the incapacity of any officer of the Association.
  - 4.16.2 The Board may relocate the principal office, or designate alternative principal offices, or authorize the officers to do so.
  - 4.16.3 During any emergency the Board may hold meetings with notice given only to those directors with whom it is practicable to communicate, and the notice may be given in any reasonable manner, including publication or radio. The director or directors in attendance at such meeting shall constitute a quorum.
  - 4.16.4 Corporate action taken in good faith during an emergency under this Section to further the ordinary affairs of the Association shall bind the Association and shall have the rebuttable presumption of being reasonable and necessary.
  - 4.16.5 Any officer, director, or employee of the Association acting with a reasonable belief that his actions are lawful in accordance with these emergency Bylaws shall incur no liability for doing so, except in the case of willful misconduct.
  - 4.16.6 The provisions of these emergency By-Laws shall supersede any inconsistent or contrary provisions of the By-Laws during the period of the emergency.
  - 4.16.7 An "emergency" exists for purposes of this Section during the time a quorum of the Association's directors cannot readily be assembled because of a catastrophic event, such as a hurricane, earthquake, act of war or terrorism, or other such occurrence. An "emergency" also exists during any period of time that local civil authorities have declared that a state of emergency exists in, or have ordered evacuation of, the area in which The Shores is located. A determination by any two (2) directors, or by the President, that an emergency exists shall have presumptive validity.
- 4.17 Execution of Documents. The Board of Directors, except as in these By-Laws otherwise provided, hereby authorizes its President or Vice President, to enter into any contract or execute any instrument in the name and on behalf of the Association.

## 5 AUTHORITY OF THE BOARD

The Board of Directors shall have the powers and duties necessary or helpful for the administration of the affairs of the Association and may take all acts, through the proper officers of the Association, in exercising such powers, except such acts which by law or the Governing Documents are prohibited from being delegated to the Board of Directors. Such powers and

duties of the Board of Directors shall include, without limitation (except as limited elsewhere herein), the following:

- 5.1 Operating and maintaining all Common Property.
- 5.2 Determining the expenses required for the operation of the Association and Common Property.
- 5.3 Maintaining bank accounts on behalf of the Association and designating the signatories required therefor.
- 5.4 Purchasing, leasing or otherwise acquiring title to, or an interest in, property in the name of the Association, or its designee, for the use and benefit of its Members. The power to acquire personal property shall be exercised by the Board and the power to acquire real property shall be exercised is described herein and in the Declaration.
- 5.5 Purchasing, leasing or otherwise acquiring property, including, without limitation, Lots, Units or other property within the Property at foreclosure or other judicial sales, all in the name of the Association, or its designee.
- 5.6 Making repairs, additions and improvements to, or alterations of, Common Property and Association property in accordance with the provisions of the Declaration after damage or destruction by fire or other casualty.
- 5.7 Allocating income and expenses and taking such other actions as shall be deemed necessary and proper for the sound management of the Association.
- 5.8 Levying fines against appropriate Members, occupants and lessees for violations of the rules and regulations established by the Association to govern the conduct of Members and Occupants. No fine shall be levied except after giving reasonable notice and opportunity for a hearing to the affected Member and, if applicable, his tenant, licensee or invitee.
- 5.9 Borrowing money on behalf of the Association when required in connection with the operation, care, upkeep and maintenance of Common Property or the acquisition of real property, and granting mortgages on and/or security interests in Association owned property; provided, however, that the consent of a majority of the Voting Members shall be required for the borrowing of any sum which would cause the total outstanding indebtedness of the Association to exceed \$200,000.
- 5.10 Contracting for the management, maintenance, repair and replacement of the Common Property and Association property and authorizing a management agent (who may be an affiliate of the Developer) to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of the Governing Documents and maintenance, repair, and replacement of the Common Property and Association property with such funds as shall be made available by the Association for such purposes. The Association and its officers shall,

however, retain at all times the powers and duties granted by the Governing Documents, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association.

- 5.11 At its discretion, authorizing Members or other persons to use portions of the Common Property and Association property for private parties and gatherings and imposing reasonable charges for such private use.
- 5.12 Exercising (i) all powers specifically set forth in the Governing Documents, (ii) all powers incidental thereto, and (iii) all other powers not prohibited to a Florida not for profit corporation or a Florida "homeowners' Association" as defined in Chapter 617, Florida Statutes.
- 5.13 Contracting with and creating or joining in the creation of special taxing districts, joint councils and the like.
- 5.14 Selecting, appointing and removing all officers, agents and employees of the Association, prescribing such powers and duties for them as may be consistent with law and the Governing Documents, and fixing their compensation, if any.
- 5.15 Changing the principal office for the transaction of the business of the Association; designating any place for the holding of any annual or special meeting or meetings of Members consistent with the provisions hereof.
- 5.16 Fixing and levying from time to time Assessments upon the Owners, as provided in the Declaration; setting the due date for the payment of such Assessments and the date upon which the same shall become delinquent. Assessments shall be fixed and levied to provide for the payment of the expenses of the Association, expenses for the operation, maintenance, repair and replacement of Common Property), and Association property, for security and monitoring of the Property, and for taxes and governmental assessments upon real or personal property owned, leased, controlled or occupied by the Association, or for the payment of expenses for labor rendered or materials or supplies used and consumed, or equipment and appliances furnished for the maintenance, improvement or development of such property or for the payment of any and all obligations in relation thereto, or in performing or causing to be performed any of the purposes of the Association for the general benefit and welfare of its Members, all in accordance with the provisions of the Declaration. Should any Owner fail to pay such Assessments before delinquency, the Board of Directors in its discretion is authorized to enforce the payment of such delinquent Assessments as provided in the Declaration.
- 5.17 Enforcing the provisions of the Governing Documents and other agreements of the Association.
- 5.18 Contracting and paying for fire, casualty, errors and omissions, blanket liability, malicious mischief, vandalism, and other insurance, insuring the Owners, the Association, the Board of

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Directors and other interested parties, in accordance with the provisions of the Declaration, covering and protecting against such damages or injuries as the Board deems advisable, which may include, without limitation, medical expenses of persons injured on the Common Property and Association property and to bond the agents and employees of any management body, if deemed advisable by the Board. The Board shall review, not less frequently than annually, all insurance policies and bonds obtained by the Board on behalf of the Association.

- 5.19 Contracting and paying for maintenance, gardening, utilities, materials, and supplies, and services relating to the Common Property and Association property, and to employ personnel necessary for the operation of the Common Property, Association property, and the Association, including legal and accounting services (subject to limitations set forth in the Articles regarding claims against the Declarant), and contracting and paying for Improvements to Common Property.
- 5.20 Delegating its powers according to law.
- 5.21 Granting easements where necessary for utilities, sewer facilities and other services over the Common Property.
- 5.22 Fixing, determining and naming from time to time, if necessary or advisable, the public agency, fund, foundation or non-profit corporation or association, which is then organized, to which the assessments of this Association shall be distributed upon liquidation or dissolution, according to the Articles of Incorporation of the Association. The assets so distributed shall be those remaining after satisfaction of all just debts and obligations of the Association, and after distribution of all property held or acquired by the Association under the terms of a specific trust or trusts.
- 5.23 Adopting such rules and regulations as the Board may deem necessary for the management of the Common Property and Association property, which rules and regulations shall become effective and binding after (1) they are adopted by a majority of the Board at a meeting called for that purpose, or by the written consent of such number of directors attached to a copy of the rules and regulations of the Association, and (2) they are posted in a conspicuous place in the Common Property. Such rules and regulations shall not materially and adversely affect the rights, privileges or preferences of Declarant as established by the Governing Documents without the prior written approval of Declarant. Such rules and regulations may concern, without limitation, use of the Common Property and Association property, signs, parking restrictions, minimum standards of property maintenance consistent with the Declaration and the procedures of the Design Review Board; and any other matter within the jurisdiction of the Association as provided in the Declaration; provided, however, that such rules and regulations shall be enforceable only to the extent that they are consistent with the Declaration, the Articles of Incorporation and these By-Laws.



## 6 OFFICERS

- 6.1 Designation. The principal officers of the Association shall be a President, a Vice President, a Secretary, and a Treasurer, all of whom shall be elected by the Board of Directors. The Board of Directors may appoint an Assistant Treasurer and an Assistant Secretary, and such other officers as in their judgment may be necessary. Officers need not be directors. Any two offices may be held by the same person, but the office of President or Secretary may not be held by the same person.
- 6.2 Election of Officers. The officers of the Association shall be elected annually by the Board of Directors at the organization meeting of each new Board of Directors, and each officer shall hold his or her office at the pleasure of the Board of Directors, until he or she shall resign or be removed or otherwise disqualified to serve or his or her successor shall be elected and have qualified to serve.
- 6.3 Removal of Officers. Upon an affirmative vote of a majority of the entire Board of Directors, any officer may be removed, with or without cause, and his or her successor elected at any regular meeting of the Board of Directors or at any special meeting of the Board of Directors called for such purpose.
- 6.4 President. The President shall be the chief executive officer of the Association. He or she shall preside at all meetings of the Association and of the Board of Directors. He or she shall have all of the general powers and duties which are usually vested in the office of the President of a corporation. The President shall, subject to the control of the Board of Directors, have general supervision, direction and control of the business of the Association. The President shall be ex officio a member of all standing committees, and he or she shall have such other powers and duties as may be prescribed by the Board of Directors or these By-Laws of the Association.
- 6.5 Vice President. The Vice President shall take the place of the President and perform his or her duties whenever the President shall be absent, disabled or refuses or is unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him or her by the Board of Directors or these By-Laws.
- 6.6 Secretary. The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the Members of the Association at the principal office of the Association or at such other place as the Board of Directors may order. The Secretary shall keep the seal of the Association in safe custody and shall have charge of such books and papers as the Board of Directors may direct; and the Secretary shall, in general, perform all of the duties incident to the office of Secretary. The Secretary shall give, or cause to be given, notices of meetings of the Members of the Association and of the Board of Directors required by these By-Laws or by law to be given. The Secretary shall maintain a list of Members,

listing the names and addresses of the Members as furnished the Association, and such list shall be changed only at such time as satisfactory evidence of a change in ownership is presented to the Secretary. The Secretary shall perform such other duties as may be prescribed by the Board of Directors.

- 6.7 Treasurer. The Treasurer shall have responsibility for Association funds and securities and shall be responsible for keeping, or causing to be kept, full and accurate accounts, tax records and other records of business transactions of the Association, including accounts of all assets, liabilities, receipts and disbursements in books belonging to the Association. The Treasurer shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board of Directors. The Treasurer shall disburse the funds of the Association as may be ordered by the Board of Directors in accordance with the Declaration, shall render to the President and directors, upon request, an account of all of his or her transactions as Treasurer and of the financial condition of the Association, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or these By-Laws.

## 7 COMPENSATION; RESIGNATION

- 7.1 Compensation. Neither directors nor officers shall receive compensation for their services as such, but this provision shall not preclude the Board of Directors from employing a director or officer as an employee of the Association, or from contracting with a director or officer for any other service to be supplied by such director or officer. Directors and officers shall be compensated for all actual and proper out of pocket expenses relating to the proper discharge of their respective duties.
- 7.2 Resignation. Any director or officer may resign his or her post at any time by written resignation delivered to the Board or to the President or Secretary of the Association. Any such resignation shall take effect upon its receipt unless a later date is specified in the resignation, in which event the resignation shall be effective from such date unless withdrawn. The acceptance of a resignation shall not be required to make it effective. The conveyance of all Units owned by any director or officer (other than appointees of the Declarant or officers who were not Owners) shall constitute a written resignation of such director or officer.

## 8 BUDGET AND ASSESSMENTS

- 8.1 Adoption by Board; Items. The Board of Directors shall from time to time, and at least annually, prepare a budget for the Association and all Common Property and Association property governed and operated by the Association, determine the amount of Assessments payable by the Members to meet the expenses of the Association and allocate and assess such expenses among the Members in accordance with the provisions of the Declaration. In addition, if the Association maintains Limited Common Property with the cost to be shared only by those entitled to use the Limited Common Property, the budget or a schedule attached thereto shall show amounts budgeted therefor. In addition to annual operating expenses, the

budget shall include reserve accounts for capital expenditures and deferred maintenance (to the extent required by law).

8.2 Adoption by Membership. In the event that the Board of Directors shall be unable to adopt a budget for a fiscal year, the Board of Directors may call a special meeting of Members for the purpose of considering and adopting such budget, which meeting shall be called and held in the manner provided for such special meetings in said Subsection, or propose a budget in writing to the Members, and if such budget is adopted by the Voting Members, upon ratification by a majority of the Board of Directors, it shall become the budget for such year.

8.3 Assessments. Assessments against Members for their share of the items of the budget shall be made for the applicable fiscal year annually at least twenty (20) days preceding the year for which the Assessments are made. Such Assessments shall be due in equal installments, payable in advance on the first day of each month (or each quarter at the election of the Board) of the year for which the Assessments are made. If annual Assessments are not made as required, Assessments shall be presumed to have been made in the amount of the last prior Assessments, and monthly (or quarterly) installments on such Assessments shall be due upon each installment payment date until changed by amended Assessments. In the event the annual Assessments prove to be insufficient, the budget and Assessments may be amended at any time by the Board of Directors. Unpaid Assessments for the remaining portion of the fiscal year for which amended Assessments are made shall be payable in as many equal installments as there are full months (or quarters) of the fiscal year left as of the date of such amended Assessments, each such monthly (or quarterly) installment to be paid on the first day of the month (or quarter), commencing the first day of the next ensuing month (or quarter). If only a partial month (or quarter) remains, the amended Assessments shall be paid with the next regular installment in the following year, unless otherwise directed by the Board in its resolution.

8.4 Special Assessments and Assessments for Capital Improvements. Special Assessments and Capital Improvement Assessments (as defined in the Declaration) shall be levied as provided in the Declaration and shall be paid in such manner as the Board of Directors of the Association may require in the notice of such Assessments. The funds collected pursuant to a Special Assessment shall be used only for the specific purpose or purposes set forth in the notice of adoption of same. However, upon completion of such specific purpose or purposes, any excess funds will be considered common surplus, and may, at the discretion of the Board, either be returned to the Members or applied as a credit towards future Assessments.

8.5 Depository. The depository of the Association shall be such bank or banks in the State of Florida as shall be designated from time to time by the Board and in which the monies of the Association shall be deposited. Withdrawal of monies from those accounts shall be made only by checks signed by such person or persons as are authorized by the Board. All reserve and operating funds collected by the Association from Assessments or otherwise shall not be commingled in a single fund and shall be divided into more than one fund as determined by a majority of the Board. In addition, a separate reserve account should be established for the

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Association in such a depository for monies specifically designated as reserves for capital expenditures and/or deferred maintenance.

- 8.6 Acceleration of Installment Upon Default. If a Member shall be in default in the payment of an installment upon his Assessments, the Board of Directors or its agent may accelerate the balance of the current budget year's Assessments upon thirty (30) days' prior written notice to the Member and the filing of a claim of lien, and the then unpaid balance of the current budget year's Assessments shall be due upon the date stated in the notice, but not less than five (5) days after delivery of the notice to the Member, or not less than ten (10) days after the mailing of such notice to the Member by certified mail, whichever shall first occur.
- 8.7 Fidelity Bonds. Fidelity bonds shall be required by the Board of Directors for all persons handling or responsible for Association funds in such amounts as shall be determined by a majority of the Board, but in no event less than the greater of \$100,000 or the maximum amount that will be in the custody or control of the Association or any persons handling or responsible for Association funds at any one time. The premiums on such bonds shall be paid by the Association as a Common Expense.
- 8.8 Accounting Records and Reports. The Association shall maintain accounting records in the State, according to accounting practices normally used by similar associations. The records shall be open to inspection by Members or their authorized representatives at reasonable times on reasonable notice. The records shall include, but not be limited to, (a) a record of all receipts and expenditures, and (b) an account for each Unit or Lot designating the name and current mailing address of the Member, the amount of Assessments, the dates and amounts in which the Assessments come due, the amount paid upon the account and the dates so paid, and the balance due. Within sixty (60) days following the end of the fiscal year, the Board shall mail or deliver to each Member a complete financial report of actual receipts and expenditures for the previous twelve (12) months, or a complete set of financial statements for the preceding year prepared in accordance with generally accepted accounting principles.

## 9 AMENDMENTS TO BY-LAWS

These By-Laws may be amended in the following manner:

- 9.1 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of a meeting at which a proposed amendment is to be considered.
- 9.2 Adoption. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board or by Voting Members holding not less than one-third (1/3) of the votes of the Association. Directors and Voting Members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided that such approval is delivered to the Secretary at or prior to the meeting. The proposed amendment must be approved by not less than a majority of the votes cast by Voting

Members, present in person or by proxy at a duly called meeting of Members and by not less than 66-2/3% of the entire Board of Directors.

## **10 CONFLICTING PROVISIONS**

In case any of these By-Laws conflict with any provisions of the laws of the State of Florida, such conflicting By-Laws shall be null and void upon final court determination to such effect, but all other provisions of these By-Laws shall remain in full force and effect. In case of any conflict between the Articles and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

## **11 INDEMNIFICATION OF DIRECTORS, OFFICERS, COMMITTEE MEMBERS AND AGENTS**

On the terms and conditions set forth in the Articles, the Association shall indemnify any person who was or is a party to any proceeding (other than an action by the Association) by reason of the fact that he is or was a director, officer, committee member, employer or agent of the Association against liability incurred in connection with such proceeding, including any appeal thereof, if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful.

## **12 OFFICIAL RECORDS**

The Association shall keep in its office for the transaction of business the original or a copy of the Governing Documents and all other official records of the Association required by law, including but not limited to the following:

- 12.1 Copies of any plans, specifications, permits, and warranties related to improvements constructed on the common areas or other property that the Association is obligated to maintain, repair, or replace.
- 12.2 The minutes of all meetings of the Board of Directors and of the Members, which minutes must be retained for at least 7 years.
- 12.3 A current roster of all Members and their mailing addresses and Lot and/or Unit number.
- 12.4 All of the Association's insurance policies or a copy thereof, which policies must be retained for at least 7 years.
- 12.5 A current copy of all contracts to which the Association is a party, including, without limitation, any management agreement, lease, or other contract under which the Association has any obligation or responsibility. Bids received by the Association for work to be performed must also be considered official records and must be kept for a period of 1 year.

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- 12.6 The financial and accounting records of the Association, kept according to good accounting practices. All financial and accounting records must be maintained for a period of at least 7 years. The financial and accounting records must include:
- 12.6.1 Accurate, itemized, and detailed records of all receipts and expenditures.
  - 12.6.2 A current account and a periodic statement of the account for each member, designating the name and current address of each member who is obligated to pay assessments, the due date and amount of each assessment or other charge against the member, the date and amount of each payment on the account, and the balance due.
  - 12.6.3 All tax returns, financial statements, and financial reports of the Association.
  - 12.6.4 Any other records that identify, measure, record, or communicate financial information. The official records shall be maintained within the state and must be open to inspection and available for photocopying by Members or their authorized agents at reasonable times and places within 10 business days after receipt of a written request for access.