

Prepared by and return to:
Backer Aboud Poliakoff & Foelster, LLP
The Arbor Suite 420
400 South Dixie Highway
Boca Raton FL 33432
(561) 361-8535

**CERTIFICATE OF AMENDMENT TO THE DECLARATION OF COVENANTS
AND RESTRICTIONS FOR WINDY PINES PHASES III AND IV
HOMEOWNER'S ASSOCIATION, INC. ("DECLARATION")**

WHEREAS, the original Declaration was recorded in the Public Records of St. Lucie County in Book 2133, Page 658; as it may have been amended from time to time (including by a novation and substitution recorded in the Public Records of St. Lucie County in Book 2338, Page 1005); and,

WHEREAS, the Amended and Restated Declaration of Covenants and Restrictions for Windy Pines Phases III and IV Homeowner's Association, Inc. ("Amended and Restated Declaration") attached hereto as Exhibit A was approved by at least a majority of the entire Board of Directors at a duly called and noticed meeting of the Board held on March 4, 2019, at which meeting a quorum was attained; and by at least two-thirds (2/3) the voting interests of all Members of the Association at a duly called and noticed meeting of the Membership originally called on December 17, 2018, and adjourned to March 4, 2019, at which meeting a quorum was attained; the aforementioned Declaration was amended and restated pursuant to the provisions thereof.

NOW THEREFORE, the undersigned hereby certify that the attached amendments to the Declaration are true and correct copies of the amendments approved by the Board and the Membership.

[Signatures on Following Page]

WITNESS my signature hereto this 12th day of MARCH, 2019 at PSL, St. Lucie County, Florida.

Windy Pines Phases III and IV Homeowner's Association, Inc.

Witness 1: Margaret Arthur

By: [Signature]
Douglas Baber, as President

Print Witness 1 Name:
Margaret Arthur

Attest: [Signature]
Paul Baker, as Secretary

Witness 2: Margaret Arthur

Print Witness 2 Name:
Margaret Arthur

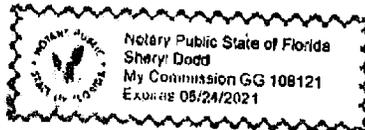
STATE OF FLORIDA
COUNTY OF ST. LUCIE

I HEREBY CERTIFY that, on this 12th day of MARCH, 2019 before me personally appeared Douglas Baber and Paul Baker, the President and Secretary respectively, of Windy Pines Phases III and IV Homeowner's Association, Inc., acknowledged to me that the execution of the above certificate is the free and voluntary act and deed of them, and each of them, each himself and not for the other, and each acknowledged the facts therein stated are true as set forth. They are personally known to me or have provided _____ as identification and did take an oath. In the absence of indication of a type of identification, they are personally known to me.

My Commission Expires:

[Signature]
Notary Public

Print Notary Name:
Sheryl Dodd



This instrument prepared by and returned to:
Ryan D. Poliakoff, Esq.
Backer Aboud Poliakoff & Foelster, LLP
400 S. Dixie Highway, Suite 420
Boca Raton, FL 33432

AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS
FOR
WINDY PINES PHASES III AND IV HOMEOWNER'S ASSOCIATION, INC.

This Amended and Restated Declaration of Covenants and Restrictions restates and replaces the is in complete substitution and a novation of the amended Declaration of Covenants and Restrictions recorded in O.R. Book 2133, Page 658, on January 10, 2005, as the same may have been amended and restated from time to time. The exhibits to the Declaration remain as originally recorded or as they may have been amended from time to time.

~~THIS DECLARATION OF COVENANTS AND RESTRICTIONS is made this ____ day of _____, 2005 by KB HOME TREASURE COAST, LLC, a Delaware Limited Liability Co. (hereinafter referred to as the "Developer").~~

RECITALS:

~~WHEREAS, the Developer is the owner of certain real property described in Section 2 of this Declaration and desires to create thereon a general plan and scheme for development of a residential community; and~~

~~WHEREAS, Developer desires to provide for the preservation and enhancement of the property values, amenities and opportunities in the community and for specified maintenance of the properties and improvements thereon, and to this end desires to subject the real property described in Section 2 of this Declaration of the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of this property and each Owner thereof; and~~

~~WHEREAS, Developer has deemed it advisable, for the efficient preservation of the values and amenities in said community, to create an entity to which should be delegated and assigned the powers of owning, maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments as created in this Declaration, and promoting the recreation, health, safety and welfare of the owners and occupants of each Lot in the community; and~~

~~WHEREAS, the WINDY PINES PHASES III AND IV HOMEOWNERS ASSOCIATION, INC. a not for profit Florida Corporation has been previously or shall be incorporated for the purpose of exercising the functions mentioned above; and~~

~~— NOW THEREFORE, the Developer hereby declares that the real property described in Section 2 below is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") set forth in this Declaration, all of which are perpetual covenants which run with the land.~~

Section 1. DEFINITIONS. The following definitions shall apply in this Declaration and in the Articles of Incorporation and By-laws, unless the context otherwise requires:

1.1 "Articles" means the Articles of Incorporation as amended from time to time.

1.2 "Assessment" means a share of the funds required for the payment of common expenses which from time to time is assessed against the Lots.

1.3 "Association" means WINDY PINES PHASES III AND IV HOMEOWNER'S ASSOCIATION, INC., a Florida corporation not for profit, its successors, assigns and legal representatives.

1.4 "Board of Directors" or "Board" means the representative body which is responsible for the administration of the Association's affairs.

1.5 "By-laws" mean the By-laws as amended from time to time.

1.6 "Common Area" or "Common Areas" means and refers to those Properties which are intended to be devoted to the common use and the enjoyment of the Owners and occupants, in this Declaration, as well as the portions of the Properties less the Lots, and as well as all personal property owned, leased by or dedicated to the Association for the common use and enjoyment of the Owners and occupants. The Common Areas consist of the Entrance Sign and Landscaping and the road island landscaping. All the elements are located on property owned by the City of Port St. Lucie.

1.7 "Community" means WINDY PINES PHASES III AND IV, as per Exhibit "A" to this Declaration, as it may be expanded from time to time.

1.8 "County" means St. Lucie County, Florida.

1.9 "Declaration" means this instrument as amended from time to time.

1.10 "Developer" means KB HOME TREASURE COAST, LLC, a Delaware Limited Liability Co., its successors, assigns and legal representatives, and shall also mean any successor or assign so designated by the Developer to any or all of its interests in the development of WINDY PINES PHASES III AND IV, including ADAMS HOMES OF NORTHWEST FLORIDA, INC., a Florida For Profit Corporation.

1.11 "Dwelling Structure" means a residential single family home situated on a Lot, including all improvements associated with the home on the Lot. Unless the context specifically provides otherwise, reference to the term "Dwelling Structure" shall not include the Lot.

1.12 "General Plan of Development" means that plan as approved by appropriate governmental agencies which shall represent the total general scheme and general uses of land in the Properties, as it may be amended from time to time.

1.13 "Governing Documents" means and includes this Declaration and all Exhibits hereto, including the Articles of Incorporation and By-laws, as amended from time to time.

1.14 "Guest" means any person who is not a member of the family occupying a Lot, and who is physically present in, or occupies the Lot at the invitation of the Owner or other legally permitted occupant, without requirement to contribute money, perform any service or provide any other consideration to the Owner or Lessee in connection with occupancy of the Lot. A permanent occupant of a Lot shall not be considered as a Guest. Furthermore, an Owner of a Lot shall never be considered a Guest on the Lot he owns, unless the Owner is visiting a Lessee on the Lot.

1.15 "Institutional Mortgagee" means the holder (or its assignee) of a mortgage against any of the Properties, including any Lot, which mortgagee is a bank, savings and loan association, mortgage company, insurance company, real estate or mortgage investment trust, pension or profit sharing trust, the Federal Housing Administration, the Veterans Administration, or any agency of the United States of America. The term also refers to any holder of a mortgage against a Lot which mortgage is guaranteed or insured by the Federal Housing Administration, the Veterans Administration, any agency of the United States of America, or by any other public or private corporation engaged in the business of guaranteeing or insuring residential mortgage loans, and their successors and assigns, and includes the Developer. For definitional purposes only, an Institutional Mortgagee shall also mean the holder of any mortgage executed by or in favor of Developer, whether or not such holder would otherwise be considered an Institutional Mortgagee. "Institutional First Mortgagee" means the foregoing, but is limited to the holder of a first mortgage.

1.16 "Lease" means the grant by an Owner of a temporary right of use of the Owner's Dwelling Structure and Lot for valuable consideration.

1.17 "Lot" means a platted lot referred to as such on the Subdivision Plat, or any site plan approved by the County, and intended for residential occupancy. Unless the context specifically provides otherwise, reference to the term "Lot" shall include the Dwelling Structure and all other improvements situated on the Lot.

1.18 "Member" or "Member of the Association" means a record Owner of a Lot.

1.19 "Occupy" shall mean and refer to the act of being physically present on a Lot for two (2) or more consecutive days, including staying overnight. "Occupant" is a person who occupies a Lot. A "Permanent occupant" means a person who is occupying a Lot other than as a Guest or for vacation.

1.20 "Owner" means the record owner, whether one or more persons or entities, of the fee simple title to any Lot, but excluding those having such interests merely as security for the performance of an obligation.

1.21 "Primary Institutional Mortgagee" means that institutional mortgagee which, at the time a determination is made, holds first mortgages on more Lots in the Community than any other institutional mortgagee, such determination to be made by reference to the number of Lots encumbered, and not by the dollar amount of such mortgages.

1.22 "Properties" means all real property, including improvements thereon, which are now or hereafter made subject to this Declaration.

1.23 "Rules and Regulations" means those rules and regulations promulgated from time to time by the Board of Directors, governing the use of the Properties, including the Lots, and the operation of the Association.

1.24 "Subdivision Plat" means the plat of WINDY PINES PHASES III AND IV, recorded in Plat Book 25, Pages 32 A-K Public Records of St. Lucie County, Florida.

1.25 "Voting Interest" means and refers to the arrangement established in the Governing Documents by which the Owners of each Lot collectively are entitled to one vote in Association matters.

Section 2. PROPERTY SUBJECT TO THIS DECLARATION.

2.1 Legal Description. The real property which is and shall be transferred, sold, conveyed and occupied subject to this Declaration, is legally described in Exhibit "A" attached to and made a part of this Declaration.

~~2.2 Additional Property. The Developer shall be entitled at any time, and from time to time, to plat and/or submit additional properties to become part of the Community and subject to this Declaration. The Developer shall be entitled to add property to the jurisdiction of the Declaration, by the filing of a Supplemental Declaration, without the consent or joinder of the Association and/or any Owner.~~

Section 3. EASEMENTS: PROPERTY RIGHTS IN THE COMMON AREA.

3.1 "Easements" Each of the easements and easement rights referred to in this Section 3.1 is reserved through the Properties and is a covenant running with the land in the Community, and notwithstanding any other provisions of this Declaration, shall survive the removal of any of the Properties from the Community. None of the easements specified in this Section 3.1 may be encumbered by any leasehold or lien other than those on the lots. Any lien encumbering these easements shall automatically be subordinate to the rights of Owners with respect to such easements.

A. Utility Service and Drainage Easements.

1. In addition to that shown on the Subdivision Plat, there is hereby created a blanket easement upon, across, over, through and under the Properties for the installation, replacement, repair and maintenance of all utility and service lines and systems, and irrigation including but not limited to electric, gas, water, sewer, telephone, electric, cable television, security, and surveillance or communication lines and systems, and irrigation. By virtue of this easement it shall be expressly permissible for the Developer or the providing utility or service company to install and maintain facilities and equipment on the Properties, to excavate for such purposes and to affix and maintain wires, circuits, and conduits on the Lots and on, in and under the roofs and exterior walls of the Dwelling Structures, providing the disturbed areas are restored to the condition in which they were found and that an easement does not prevent or unreasonably interfere with the use of the Lots. Except as otherwise provided in Section 3.1.A.2 below, no sewer, electrical lines, water lines, or other utility service lines or facilities for such utilities and no cable or communication lines and systems may be installed or relocated on the Properties except as are approved by the Developer. The Developer may also transfer title to utility-related equipment, facilities or material, and to take any other action to satisfy the requirements of any utility company or governmental agency to which any such utility-related equipment, facilities or material are to be so transferred. Utility as referred to herein means a public or private utility. This power to create easements shall also include the power to modify or relocate easements which are created.
2. Once the Developer closes upon the sale of the last Lot in the Community, the powers vested in the Developer under Article 3.1.A.1 above shall terminate, and shall then vest in the Association. Such powers shall be exercised by the Board of Directors in its reasonable discretion without the need for joinder of any Owner.
3. In addition to the foregoing, the following shall apply with respect to easements for drainage: There is hereby reserved an easement for drainage from each Lot onto an adjoining Lot and Common Area. It shall be the responsibility of the Owner of the Lot for whose benefit this easement has been created, to insure that the drainage flow from his Lot remains open and free. It shall be the responsibility of the Association to insure that the drainage flow from the Common Area remains open and free.

4. The Developer under Section 3.1.A.1 and thereafter the Association under Section 3.1.A.2 above, or its designee, shall have a right to remove any improvements interfering with or impairing such facilities or easements herein reserved. No Owner shall do anything anywhere on his Lot that interferes with or impairs or may interfere with or impair, the provision of such utility or other services or drainage facilities or the use of these easements.

- B. Maintenance Easement in Favor of the Developer and Association. There is hereby reserved to the Developer and to the Association an easement over the Common Area for the Association's maintenance obligations pursuant to this Declaration. This easement shall also apply over, on, across, under and through each Lot for the Association's maintenance obligations under Section 6.1 of this Declaration.
- C. Encroachments. If any Lot encroaches upon any of the Common Area for any reason other than the intentional act of an Owner, or if any Common Area encroaches upon any Lot, then an easement shall exist to the extent of that encroachment as long as the encroachment exists.
- D. Ingress and Egress. A non-exclusive easement shall exist in favor of each Owner and occupant, their respective guests, tenants, licensees and invitees for pedestrian traffic over, through, and across streets, paths, walks, and other portions of the Lots or Common Area as from time to time may be intended and designated for such purpose and use, and for vehicular and pedestrian traffic over, through, and across such portions of the Common Area as from time to time may be paved or intended for such purposes, and for purposes of ingress and egress to the public ways.
- E. Easement of Enjoyment to Common Area. Every Owner has a right and easement of enjoyment of the Common Area, subject to any limitations in this Declaration and reasonable Rules and Regulations.

3.2 Common Areas.

- A. Purposes Intended. Common Areas shall be used for the purposes intended.

4.1. WINDY PINES PHASES III AND IV HOMEOWNER'S ASSOCIATION, INC. The operation of the Community is by the WINDY PINES PHASES III AND IV HOMEOWNER'S ASSOCIATION, INC., a Florida corporation not for profit, which shall perform its functions pursuant to this Declaration, and the following:

- A. Articles of Incorporation. The Articles of Incorporation of the Association shall be the Articles of Incorporation attached as Exhibit "B", as amended from time to time.

- B. By-laws. The By-laws of the Association shall be the By-laws attached as Exhibit "C", as amended from time to time.
- C. Membership and Voting Rights. The membership of the Association shall be as provided in the Articles of Incorporation and By-laws. This Owners of each Lot shall collectively be entitled to that vote as more fully provided in the Articles of Incorporation and By-laws.
- D. Limitation on Association Liability.
1. Notwithstanding its duty to maintain and repair certain Properties, the Association shall not be liable to the Owners for injury or damage caused by Properties for which the Association has responsibility to maintain. In the event that any portion of the Properties for which the Owner has maintenance responsibility under this Declaration, or any real or personal property of the Owner, shall be damaged in the course of the Association's maintenance, repair or replacement of those Properties for which the Association has responsibility, the Owner shall bear the full risk of loss. The only exception under this Section 4.1.D.1 is where the Association (whether for itself or its contractor) is guilty of negligence or intentional misconduct which causes the loss, in which case the Association bears the risk of loss created by same (with any available contribution from the contractor or others). This Section 4.1.D.1 shall also apply where the loss results in the course of the Association's reconstruction and repair after casualty.
 2. The Association shall in no event be liable for any damages resulting from an Owner's breach of his maintenance, repair and replacement responsibility under this Declaration.

Section 5. ASSESSMENTS AND LIENS: CHARGES. The Association has the power to levy and collect assessments against each Lot and Owner in order to provide the necessary funds for proper operation and management of the Community and for the operation of the Association, including both annual assessments for each Lot's share of the common expenses as set forth in the annual budget, and special assessments for any proper common expenses. The Association may also levy Charges against individual Lot(s) and Owner(s) for any amounts, other than for common expenses, which are properly chargeable against such Lot and Owner under the Governing Documents.

5.1 Common Expenses. Common expenses include all expenses of the operation, maintenance, repair, replacement or insurance of the Common Area, certain portions of the Lots, the expenses of operating the Association, and any other expenses properly incurred by the Association for the Community, including any amounts budgeted for the purpose of funding reserve accounts, ~~and any expenses assessed by the Master Association.~~

5.2 Share of Common Expenses. All Lots for which a certificate of occupancy has been issued: An equal base rate (the "Base Rate") plus the Lot's equal pro rata share of any bulk rate cable television and telecommunications services shall be assessed.

5.3 Ownership. Assessments collected by or on behalf of the Association become the property of the Association. No Owner has the right to claim, assign or transfer any interest therein except as an appurtenance to his Lot. No Owner has the right to withdraw or receive distribution of this share of the common surplus, except as otherwise provided in the Governing Documents or by law.

5.4 Who is Liable for Assessments. The Owner of each Lot, regardless of how title was acquired, is liable for all assessments or installments thereon coming due while he is the Owner. Multiple Owners are jointly and severally liable. Except as otherwise provided in Sections 5.8.A and 12.5 below, whenever title to a Lot is transferred for any reason, the transferee is jointly and severally liable with the transferor for all unpaid assessments against the transferor, regardless of when incurred, without prejudice to any right the transferee may have to recover from the transferor any amounts paid by the transferee.

5.5 No Waiver or Excuse From Payment. The liability for assessments may not be avoided or abated by waiver of the use or enjoyment of any Common Area, by abandonment of the Lot on which the assessments are made, by interruption in the availability of the Lot or the Common Area for any reason whatsoever, or by dissatisfaction with the Association and/or its operation and policies. No Owner may be excused from payment of his share of the common expenses unless all Owners are likewise proportionately excused from payment, except as otherwise provided in Section 5.8.A as to certain mortgagees and in Section 12.5 as to the Developer.

5.6 Application of Payments: Failure to Pay: Interest: Late Fees. Assessments and installments thereon paid on or before ~~thirty (30)~~ten (10) days after the date due shall not bear interest, but all sums not so paid shall bear interest at the rate of 18% per annum calculated from the date due date until paid. In addition, any assessments or installments not paid on or before ~~thirty (30)~~ten (10) -days after the date due shall result in the imposition of a late fee equal to ~~the higher of \$25.00 or five (5%) percent of the late payment.~~ Assessments and installments thereon shall become due, and the Owner shall become liable for the assessments or installments, on the date established in the By-laws or otherwise set by the Board of Directors of the Association for payment. All payments on account shall be applied in the following order irrespective of any restrictive endorsement, designation or instruction placed on or accompanying any payment: To interest, late fees, costs and attorneys'/paralegals' fees, and annual and/or special assessments first due and owing. If payment is made by check which fails to clear, then the Owner shall be considered not to have made payment.

5.7 Liens. The Association has a lien on each Lot securing payment of past due assessments, including late fees, interest and attorneys' and paralegal fees and costs incurred by the Association incident to the collection of the assessment or enforcement of the lien, whether before, during or after a lien foreclosure suit or other lawsuit. The lien is perfected upon recording a Claim of Lien in the Public Records of the County, stating the legal description of the Lot, the name of the record Owner, the assessments past due and the due dates. The lien is in effect until

barred by law. The Claim of Lien secures all unpaid assessments and charges coming due prior to a final judgment of foreclosure. Upon full payment, the person making the payment is entitled to a satisfaction of the lien.

5.8 Priority of Lien.

- A. Rights of Certain Mortgagees and other Lienholders. The Association's lien for unpaid assessments shall be subordinate and inferior to any recorded first mortgage, unless the Association's claim of lien was recorded before the mortgage, but shall be superior to, and take priority over any other mortgage and any other lien, regardless of when the mortgage or other lien was recorded.
- (1.) With respect to any such mortgage which has superiority over the Association's Claim of Lien: When the mortgagee or other purchaser obtains title to the Lot as a result of foreclosure of the mortgage, or a deed in lieu of foreclosure, the acquirer of title, its successors and assigns, shall not be liable for all assessments as provided in section 720.3085(2)(c), Fla. Stat. (2017). Notwithstanding anything contained herein to the contrary, only a first mortgagee who acquires title to a unit shall be excused from paying assessments and other sums which came due prior to acquiring title. Nothing herein shall be construed to relieve a first mortgagee who acquires title from the obligation to pay the Association the lesser of twelve (12) months of unpaid assessments that came due immediately preceding the acquisition of title or 1% of the original mortgage amount as is currently required pursuant to section 720.3085(2)(c) Fla. Stat. 2017. If the referenced statute is amended to increase the amount of the first mortgagee's liability, the first mortgagee shall be liable for that increased amount. No statutory amendment which may effectively decrease a first mortgagee's liability shall also alter a mortgagee's liability to the Association under this section. Any residential unit owner who was not the holder of a first mortgage who acquires title to a unit at a foreclosure sale held in the context of a mortgage foreclosure or any other public sale shall be liable to pay any and all unpaid assessments that came due prior to acquiring title in addition to all interest, costs, late charges and attorney's fees which came due prior to taking title as well as those that were incurred subsequent to acquiring title and in collection of such sums any delinquent assessments due and owing to the Association pertaining to the Lot or chargeable to the former Owner of the Lot which became due prior to the acquisition of title as a result of foreclosure or a deed in lieu of foreclosure. These Any unpaid assessments for which a first mortgagee may not be liable shall be deemed to be a common expense collectible from all the Owners, including such acquirer of title, and his successors and assigns.

- B. Leases. Any lease of a Lot shall be subordinate and inferior to any claim of lien of the Association, regardless of when the lease was executed.

5.9 Foreclosure of Lien: Action at Law. The Association may bring an action in its name to foreclosure its lien for unpaid assessments in the same manner in which mortgages are foreclosed in the State of Florida and may also bring an action to recover a money judgment for unpaid assessments without waiving any lien rights. In addition to any assessments due, the Association shall be entitled to recover interest, late fees, and all costs of collection, including Court costs and paralegal and attorneys' fees.

5.10 Certificate As To Assessments. The Association shall provide an estoppel certificate stating whether all assessments and other monies owed to the Association by the Owner with respect to the Lot have been paid. The certificate shall be provided as set forth and pursuant to the requirements of Florida Statutes, Section 720.3081 (2017) or as subsequently amended. The Association shall be entitled to collect the maximum fee permitted by the statute. ~~within fifteen (15) days after written request by an Owner or mortgagee.~~ Any person other than the Owner who relies upon such certificate shall be protected thereby.

5.11 Charges.

- A. Defined. Each Lot and Owner shall be liable for Charges levied by the Association against the Lot and Owner. Charges shall be deemed to include but not be limited to: maintenance or other services furnished by the Association for the benefit of an Owner; damages; fines; and any other sums other than assessments which are referred to as Charges in the Governing Documents. ~~Through January 1, 2006, each Lot shall be assessed \$500.00 per year.~~
- B. Who is Liable for Charges. The Owner of each Lot, regardless of how title was acquired, is liable for all Charges coming due while he is the Owner. Multiple Owners are jointly and severally liable. Except as provided in Sections 5.11.E ~~and 12.5 below~~, whenever title to a Lot is transferred for any reason, the transferee is jointly and severally liable with the transferor for all unpaid Charges against the transferor, regardless of when incurred, without prejudice to any right the transferee may have to recover from the transferor any amounts paid by the transferee.
- C. Application of Payments: Failure to Pay: Late Fees: Interest. Any Charges paid on or before thirty (30) days after the date due, as specified in the notice of Charge from the Association, shall not bear interest, but all Charges not so paid shall bear interest at the rate of 18% per annum, calculated from the date due until paid. In addition, any Charges or installments not paid on or before thirty (30) days after the date due shall result in the imposition of a late fee of the higher of \$25.00 or five (5%) percent of the late payment. All payments on account shall be applied in the following order irrespective

of any restrictive endorsement, designation, or instruction placed on or accompanying any payment: To interest, late fees, costs and attorneys'/paralegals' fees, and annual and/or special assessments first due and owing. If payment is made by check which fails to clear, then the Owner shall be considered not to have made payment.

- D. Liens. The Association has a lien on each Lot securing payment of past due Charges, including interest, late fees and attorneys' and paralegals' fees and costs incurred by the Association incident to the collection of the Charges or enforcement of the lien, whether before, during or after a lien foreclosure suit or other lawsuit. The lien is perfected upon recording a Claim of Lien in the Public Records of the County, stating the legal description of the Lot, the names of the record Owner, the Charges past due dates. The lien is in effect until barred by law. Upon full payment of all sums secured by the Claim of Lien, the person making the payment is entitled to a satisfaction of the lien.
- E. Priority of Lien.
1. Rights of Certain Mortgagees and Other Lienholders. The Association's lien for Charges shall be subordinate and inferior to any recorded first mortgage or any institutional mortgage, unless the Association's claim of lien was recorded before the mortgage, but shall be superior to, and take priority over, any other mortgage and any other lien regardless of when the mortgage or any other lien was recorded.
 - (a) ~~With respect to any such mortgage which has superiority over the Association's claim of lien: When the mortgagee or other purchaser obtains title to the Lot as a result of foreclosure of the mortgage, or a deed in lieu of foreclosure, the acquirer of title, its successors and assigns, shall not be liable for any delinquent Charges due and owing to the Association pertaining to the Lot or chargeable to the former Owner of the Lot which became due prior to the acquisition of title as a result of foreclosure or a deed in lieu of foreclosure. These unpaid Charges shall be deemed to be a common expense collectible from all the Owners, including such acquirer of title, and his successors and assigns.~~
 2. Leases. Any lease of a Lot shall be subordinate and inferior to any claim of lien of the Association, regardless of when the lease was executed.
- F. Foreclosure of Lien: Action at Law. The Association may bring an action in its name to foreclosure its lien for unpaid Charges in the same manner

that mortgages are foreclosed in the State of Florida, and may also bring an action to recover a money judgment for the unpaid Charges without waiving any lien rights, and shall be entitled to recover interest, late fees, and all costs of collection, including Court costs and paralegal and attorneys' fees.

5.12 Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, Charges and liens created under this Declaration:

- A. All Properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use.
- B. All Common Area exempted from taxation by state or local governments upon the terms and to the extent of such legal exemption.

Notwithstanding any provision in this Section 5.12, no land or improvements devoted to Lot or dwelling use shall be exempt from assessments, Charges or liens, except as provided for in Sections 5.8.A and 5.11.E.1 above and Section 12.5 below.

~~5.13 Working Capital Contributions. Working capital contributions in the amount of \$100.00 per Lot shall be required from each purchaser to the Developer. Such contributions shall be used to reimburse the Developer for start-up expenses of the Association. Working capital contributions need not be restricted or accumulate. Working Capital Contributions shall be paid one time only upon the initial Sale of a Lot from the Developer. Each Owner who purchases a Lot shall pay to the Association at the time legal title is conveyed to such Owner, including on all resales, a "Working Capital Contribution." The Working Capital Contribution shall be in an amount of 25% of the annual assessment in effect at the time of the conveyance, or such other amount as determined from time to time by the Board. The purpose of the Working Capital Contribution is to ensure that the Association will have cash available to meet unforeseen expenditures and to acquire additional goods and services deemed necessary or desirable by the Board, or for capital improvements or capital expenditures. Working Capital Contributions may also be used to offset Common Expenses. Working Capital Contributions are not advance payments of any assessment installments and shall have no effect on future assessment installments, whether regular annual assessments or special assessments, nor will they be held in reserve.~~

~~5.14 Developer Provisions. Special provisions regarding the Developer and the Developer's Lots are contained in Section 12.5 below.~~

Section 6. MAINTENANCE, REPAIR AND REPLACEMENT: ASSOCIATION ALTERATIONS. Responsibility for the maintenance, repair, and replacement and Association alterations of the Properties shall be as follows:

6.1 Association Maintenance. In addition to other provisions contained elsewhere in this Declaration, the following Properties shall be maintained, repaired, replaced by the Association at the expense of the Association, as an item of common expense:

- A. All Common Area. All of the Common Area consisting of the entrance feature sign, roadways, landscaped road islands, are on property owned by the City of Port St. Lucie. These areas are the subject of an agreement by and between KB Home Treasure Coast LLC, Windy Pines Phases III and IV Homeowner's Association, Inc. and The City of Port St. Lucie. The Association shall have the obligation to fulfill the terms and conditions of the landscape and maintenance agreement. The landscape and maintenance agreement is, at the time of the recording of this Declaration, being presented for final approval by the City. Upon its completion and execution, it will be recorded as an amendment to this document and shall become binding upon the Association and its members.
- B. The vegetation, landscaping and irrigation system, if any, upon areas which are not within the Properties but abut same and are owned by a utility or governmental authority or any other person, so as to enhance the appearance of the Properties.
- ~~C. Only the following portions of the Lots: The mowing of all Lots for which a certificate of occupancy has not been issued.~~
- CD. Stormwater Management Areas shall be maintained free of all exotic and nuisance vegetation from within and below the permitted control elevation.

6.2 Maintenance by Owners. Each Owner is responsible, at his own expense, for the maintenance, repair, replacement of the following Properties:

- A. The entirety of his Lot and Dwelling Structure. The foregoing shall include all landscaping, including the mowing of the lawn on the Lot, regardless of whether a Certificate of Occupancy has been issued. ~~The Owner of each Lot shall have maintenance responsibility as follows: To the extent that any Owner discharges the maintenance responsibility of the other, after providing reasonable prior written notice, the Owner providing the maintenance responsibility of the other shall be entitled to recover from the other in a lawsuit the cost of the other Owner's share, and such other sums as are provided in Section 11.7 of the Declaration.~~
- B. Each Owner shall also have the following responsibilities/limitations:
 - 1. Each Owner must perform promptly all maintenance, repairs and replacement for which the Owner is responsible, which are necessary to ensure good and quality conditions as may be determined by the Board of Directors in its sole and absolute

discretion, and/or which if not performed would affect any of the Properties, including any Lot(s) belonging to any other Owner(s).

2. Each Owner shall promptly report to the Association or its agents any defect or need for repair on the Properties, for which the Association is responsible to maintain, repair and replace under this Declaration.
3. No Owner shall make any alteration, addition or improvement to any portion of the Common Area, except as is specifically permitted by this Declaration.
4. No Owner shall do anything which shall adversely affect the safety or soundness of the Common Area; the opinion of the Board of Directors shall control in determining whether the safety or soundness of the Common Area is adversely affected.
5. All contractors and vendors who perform work in or on any Lot must be fully licensed and insured. All work requiring a licensed contractor must be approved pursuant to Section 7, below.

6.3 Level of Maintenance. The Association is hereby empowered, by and through the Board of Directors, to determine the level of maintenance to be effected by the Owners:

Section 7. OWNERS' CONSTRUCTION, ALTERATIONS AND IMPROVEMENT ARCHITECTURAL REVIEW BOARD. The following applies to all Owners in Phases III and IV of the Windy Pines community:

7.1 Scope: Review by Architectural Review Board. No structure (whether part of a residence) walls, swimming pools, exterior lighting, or any other improvement, shall be constructed or maintained upon any Lot; no alteration, addition, changing or remodeling to the exteriors of any Dwelling Structure or other structure on a Lot shall be made; and no landscaping, removal of landscaping or modification to the irrigation system shall be added or altered on a Lot; without the Owner first obtaining the prior written approval of the Architectural Review Board ("ARB") and fully and strictly complying with this Section 7. This Section 7 shall also apply to when ARB approval is required under Section 8 below. There shall be only one ARB for the entirety of Windy Pines Phases III and IV.

7.2 Submission of Plans to the ARB. Prior to any modification, alteration or improvement referred to in Section 7.1 above, the Owner must submit a ~~three (3)~~ complete sets of color plans and specifications and plot plans to the ARB, prepared/sealed by an architect or residential designer licensed to practice in the State of Florida, as well as any additional copies of such plans as may be required by the ARB. Such plans may be submitted electronically. The plans and specification and plot plans must show to the extent applicable, the exterior design, height, building materials and color scheme thereof, the location of the structure plotted horizontally and vertically, with front, side and rear elevation and floor plans, with reference to the street side and rear lines of the

Lot; the general plan of landscaping, walls and wind breaks, and a grating plan and any other details of the modification, alteration or improvements; in a form which would be acceptable to obtain a building permit or in the event a permit is not required, then in a form that would be required if a permit was in fact required.

7.3 Function of the ARB. The ARB shall be a ~~permanent~~ committee of the Association and shall administer and perform the architectural review and control functions of the Association. The ARB shall exercise its best judgment to see that all alterations, improvements, construction and landscaping conform to and harmonize with existing surroundings and structures. The ARB may also assist and advise the Board of Directors of the Association in enforcing the Declaration and in adopting rules, regulations and guidelines, and may from time to time perform such other duties or functions as may be assigned to it by the Board of Directors.

7.4 Composition of the ARB. The ARB shall be composed of three (3) or more persons appointed by the ~~Developer so long as the Developer owns any Lot in the Community; and thereafter by the Board of Directors of the Association.~~ ARB members appointed by the Developer need not be members of the Association. ~~After the Developer no longer has the power to appoint ARB members, a~~ All such members must be members of the Association. All members of the ARB shall be subject to removal, with or without cause, by the ~~entity (Developer or Board of Directors) that appointed the particular ARB member~~ Board. A majority of the ARB shall constitute a quorum to transact business at any meeting, and the action of a majority of ARB Members present at a meeting at which a quorum is present shall constitute the action of the ARB. Any vacancy occurring on the ARB due to the death, resignation or removal of any member thereof shall be filled by the Board of Directors. ~~entity (Developer or Board of Directors) that appointed the vacating ARB member.~~ If the ARB is unavailable to review or process a proposed alteration or improvement, or if an ARB has not been appointed, the Board of Directors shall have the power to process, review and approve the foregoing.

7.5 Powers of the ARB. The ARB shall have the following powers:

- A. The ARB may require submission of samples of building materials and colors proposed to be used, and may also require such additional information as may be reasonably necessary to evaluate the proposed construction, alteration or improvement. The ARB may retain one (1) complete set of the plans and specifications delivered to the ARB by the Owner, and return two (2) sets of the Owner.
- B. To institute and require a reasonable filing fee to accompany the submission of plans and specifications, as a means of defraying its expenses.
- C. To approve or disapprove all plans and specifications within ~~thirty-sixty~~ (630) days after the Owner submits all fees, and information which is reasonably necessary for the ARB. The ARB may notify the Owner that it needs additional time if needed. If the ARB fails to notify the applicant that it needs additional time or fails to take any action within the ~~thirty-sixty~~

(630) day period, approval will not be required, and this Section 7 will be deemed to have been fully complied with.

1. In the event that the ARB disapproves any plans and specifications submitted to it, the ARB shall so notify the applicant in writing, stating the grounds upon which the disapproval was based. The ARB may alternatively approve plans and specifications subject to modifications required in writing by the ARB.
- D. To promulgate rules and regulations of general application, governing the procedures to be followed by the ARB, including the form and content of applications, plans and specifications to be submitted for approval. The ARB may from time to time adopt architectural guidelines, imposing restrictions in furtherance of the General Plan of Development of the Community that are not inconsistent with this Declaration.
- E. By any of its members or appointed agents upon reasonable notice and at any reasonable time, to enter and inspect any Lot for compliance with this Section 7 of this Declaration or any other provision in the Declaration under which the ARB has jurisdiction.
- F. To exercise any other powers delegated to it by other provisions of this Declaration and/or by the Board of Directors of the Association.

7.6 Review Criteria. The ARB may disapprove any plans submitted to it or require modifications to same, for anyone or more of the following reasons:

- A. Failure of such plans to comply with any of the protective covenants, conditions and restrictions contained in this Declaration and for architectural guidelines adopted from time to time by the ARB.
- B. Failure to include information in such plans and/or as requested by the ARB;
- C. Objection to the site plan, exterior design, appearance or materials of any proposed alteration or improvements, including without limitation, color or color scheme, finish, proportion, style or architecture, height, bulk or appropriateness of any proposed alternation or improvement;
- D. Incompatibility of the proposed alteration or improvement with existing improvements.
- E. Failure of the proposed alteration or improvement to comply with any zoning, building, health or other governmental laws, codes, ordinances, rules or regulations;

- F. Any other matter which in the judgment and sole discretion of the ARB would render the proposed alteration or improvement inharmonious or incompatible with the General Plan of Development of the Community.

7.7 Permits and Certificates of Occupancy: Compliance.

- A. No person shall seek or apply for a building permit from any governmental authority unless and until the approval of the proposed improvements has been obtained from the ARB.
- B. After the plans and specifications and plot plans and other data submitted have been approved by the ARB, no alteration, improvement or structure shall be erected, constructed, placed or maintained upon the Lot or Dwelling Structure unless same shall be erected, constructed, placed or maintained in conformity with the plans and specifications and plot plans approved by the ARB. Any alteration, construction or structure which shall be erected, constructed, placed or maintained which is not in conformity with the plans and specifications and plot plans approved by the ARB shall be deemed to have been undertaken without such approval and to be in violation of this Declaration.
- C. Furthermore, no certificate of occupancy (if application) shall be issued unless the Owner(s) have complied with this Section 7.

7.8 Records of Meetings. The ARB shall keep minutes and maintain records of all votes taken at ARB meetings. The ARB may also take action without a meeting by unanimous written consent of all members of the ARB.

7.9 No Waiver. The approval of the ARB of plans and specifications submitted for approval, as herein specified, shall not be deemed to be a waiver by the ARB of the right to object to any of the features or elements embodied in such plans and specifications, if and when the same features and elements are embodied in any subsequent plans and specifications submitted for approval for use on other Lots, even if submitted by the same Owner(s) and/or contractor(s).

7.10 Liability for Actions of the ARB. Neither the ~~Developer,~~ the Board of Directors or Officers of the Association, the members of the ARB, nor any person acting on behalf of any of them, shall be liable for any costs or damages incurred by anyone submitting plans for approval, or any other party, due to any mistakes in judgment, negligence or nonfeasance of the ARB in connection with the approval or disapproval of plans. Neither the ~~developer,~~ the Board of Directors or officers of the Association, the members of the ARB, nor any person acting on behalf of any of them, shall be responsible for any defects in any plans or specifications, nor for any defects in any alterations or improvements constructed pursuant thereto. Each party submitting plans evidenced in writing and approved by a majority of the entire membership of the ARB, which variance must also be approved by the Board of Directors in order for the variance to be effective. If such variances are granted, no violation of this Declaration or the ARB's architectural guidelines shall be deemed to have occurred with respect to the matters for which the variances were granted.

The granting of such a variance shall not, however, operate to waive any of the terms and provisions of this Declaration or architectural guidelines, covered by the variance, nor shall it affect, in any way the Owner's obligation to comply with all governmental laws and regulations affecting his or her use of the Lot, including, but not limited to, zoning ordinances and set-back lines imposed by any governmental or municipal authority, nor shall it entitle the Owner or any other Owner to a similar variance in the future.

7.11 Developer Exemption. The Developer is exempt from the provisions of this Section 7, ~~including Section 7.13 below~~, so long as the Developer owns legal title to any Lot within the Community.

7.12 Minimum Architectural Guidelines. The following minimum standards shall apply to the Properties, in addition to any other guidelines adopted by the ARB from time to time:

- A. Roof pitch shall be equal to a greater than six (6") inches in vertical dimension and twelve (12") inches of horizontal dimension, and the roof shall be of an architectural or dimensional shingle or better.
- B. The maximum building height of a dwelling structure shall be thirty-five (35) feet, which is measured from the finished first floor to the highest point of the roof of the Dwelling Structure.
- C. A Dwelling Structure shall have a minimum living area of 1600 square feet. Square footage referred to in this Section 7.13F shall be measured from the outside of the exterior walls of the Dwelling Structure, and shall be exclusive of the porches, terraces, porticos, patios, covered walks, pool area, and garages.
- D. Each Dwelling Structure shall have an enclosed garage which must be attached to the residence, which must be sufficient in size to accommodate no less than two (2) full-sized vehicles.
- E. With respect to the front yard, there shall be a minimum building setback of twenty five feet. As to the side yard setbacks, the minimum building and accessory structure setback shall be ten feet. As to any corner lot with a width between 90-100 feet, the minimum building and accessory structure setback shall be 20 feet side setback adjacent to side street. As to any corner lot with a width greater than 100 feet, the minimum building and accessory structure setback shall be 25 feet side setback adjacent to side street. As to rear yard setbacks, the minimum building setback shall be twenty five feet and for accessory structures, the minimum building setback shall be ten feet. Setbacks shall be in accordance with the City of Port St. Lucie zoning code and are subject to change.
- F. The driveway ~~and on~~ all Lots shall be concrete and a minimum of ten (10) feet wide. All ~~Lots~~ driveways shall be capable of accommodating two (2)

parked cars. Only one (1) driveway is allowed on any Lot. Driveways must be of a material and color as approved by the ARB, and in conformance with the standards of the community. All driveways must be concrete and may be left untreated, or may be either stained concrete in colors approved by the ARB or stamped concrete in designs and colors approved by the ARC. The ARB will only approve driveway materials that complement the existing house colors. The approval of driveway materials or colors substantially identical to those existing at the time of recordation of the Declaration shall not be unreasonably denied.

- G. Private boat houses or docks are not permitted on any Lots.
- H. Floritam-Sod must be installed and fully irrigated on all lawn areas. The type or types of sod that may be installed on the lots may be established by the ARB from time to time.
- I. All painting of homes, including repainting of original house colors and changes to approved original house colors (but not including maintenance requiring the repainting of up to fifty (50%) percent of the house in its original color) shall be submitted to the ARB for approval. Paint chips must be included with any application. The current approved palette of colors is available from management. The approval of the repainting of a home in accordance with the existing color scheme on the date of recordation of the Declaration or the repainting of a home in a color previously approved for that home shall not be unreasonably denied.
- J. All outdoor structures, including sheds, playground equipment and gazebos ("Outdoor Structures") require ARB approval. All Outdoor Structures shall be placed in the rear yard. In the event that rear yard placement is not physically possible, Outdoor Structures may be placed in the side yard but must be placed behind an imaginary line extending out from the rear plane of the home, and it may not be placed closer than six (6) feet from the side lot boundary. All Outdoor Structures must be screened from view with adequate landscaping in compliance with the requirements of the ARC so the structure is not visible from the adjoining properties or roadway, with the exception of the side of the Outdoor Structure containing the entrance to the structure. Fencing and/or landscaping at least six (6) feet in height will comply with the above screening requirements, regardless of whether Outdoor Structures are visible above that height. New landscape material installed as a screen must be a minimum of seven (7) gallons in size, but may be less than six (6) feet tall at the time of installation. Such material must reach six (6) feet in height within two (2) years, or it must be replaced with material that is already at least six (6) feet in height.
- K. A "fence" is defined as any structure or natural physical barrier, including

hedges, installed around the perimeter of a Lot or home, or around a portion of same. All fence material shall be of commercial quality and shall be approved by the ARB prior to installation. All fences must completely enclose the yard to be fenced (or the portion of the yard to be fenced), and must be contiguous (no free-standing fence sections are permitted). Front yard areas may not be fenced. Fencing may be installed directly adjacent to all property lines. In the event that an easement across any Lot exists (whether pursuant to the Declaration or otherwise), any fence shall be installed with an unlocked gate that shall allow access to the easement. The ARB shall have the right to establish a list of approved colors for all fencing types. Notwithstanding any of the above, only the following fencing types shall be permitted:

1. Chain link fencing may be four (4) feet or five (5) feet high. All chain link fencing that faces or is visible from the road or another Lot must include at the time of installation a hedge of suitable material, installed on the outside of the fence (in order to hide the fence from view). All hedge material installed at the time of installation of a chain link fence must be seven (7) gallons or greater in size. All chain link fencing must be vinyl coated, in either green or black color. Any gates installed in the chain link fence must be picket-style, and not chain link (as they will not be hidden by the hedge). Chain link fencing may only be installed on the sides or back of the Lots.
2. PVC/Vinyl or wood fencing may be installed up to six (6) feet in height. The color of any PVC/Vinyl or wood fence must be a color approved by the ARB.
3. Aluminum picket-style fencing may be installed up to six (6) feet in height. All aluminum fencing must be black, bronze or white in color.
4. All fence material on a single Lot of the same material must be identical in color. For example, all wooden fencing used on a Lot must match, and all chain link fencing used on a Lot must match. The side fences must always be of an identical height to each other.

Section 8. USE AND OCCUPANCY RESTRICTIONS. The use and occupancy of the Properties shall be in accordance with the following provisions so long as the Community exists:

8.1 Occupancy of Lots: Subdivision.

- A. General. Each Lot shall be occupied by Owners and tenants and their family members and guests and employees, as a residence and for no other purpose,

subject to any other provision in this Declaration and in the Rules and Regulations relating to use of the Lot.

- B. Subdivision. No Lot may be subdivided into more than one Lot. Only entire Lots may be sold, leased or otherwise transferred.

8.2 Age. There is no age restriction in this Community.

8.3 Pets and Animals.

- A. Owners and tenants are permitted to have pets and animals as a privilege, but only as follows:
1. Animals and pets shall be restricted to cats, dogs, birds and fish in reasonable numbers ordinary household pets as may be allowed by law or ordinance. No illegal pets or animals shall be allowed.
 2. When outside of the Dwelling Structure, all dogs must be accompanied by an attendant who shall have such dog firmly held by collar and leash, which leash shall not exceed eight (8) feet in length. No dogs shall be permitted to run at large outside the Lot.
 3. The owner/custodian of each animal and pet and/or the individual walking same shall be required to clean up after the pet/animal.
 4. The owner/custodian of the animal or pet shall remove his or her animal or pet from the Community when such animal or pet emits excessive noise such that same may be heard outside of the Lot.
 5. The pet/animal owner and the Owner of the Lot involved shall be strictly liable for damages caused by the pet/animal to the Properties.
 6. Any pet/animal owner's privilege to have a pet/animal reside in the Community shall be revoked if the pet/animal shall create a nuisance or shall become a nuisance.
- B. Exception. The provisions of this Section 8.3 shall yield where necessary to meet the needs of handicapped persons pursuant to fair housing laws.

8.4 Vehicles and Parking. The following restrictions apply irrespective of whether the Properties in question lies within areas owned by or dedicated to a governmental entity:

- A. Prohibited Vehicles or Items. This Section A lists prohibited vehicles or items ("Prohibited Vehicles"), which are prohibited anywhere on the Property, except within the garage of a Dwelling Structure with the garage

door closed, unless such vehicle or item is also listed in Section B below, in which case it shall not be prohibited outside of the garage: Motorcycles, dirt bikes or other two-wheeled motorized vehicles; mopeds and other self-powered bicycles; trucks, which covered or uncovered, whether with a bed top or without; agriculture vehicles; dune buggies, swamp buggies and all terrain and off-road vehicles; any trailer or other device transportable by vehicular towing; semis, tractors or tractor trailers; buses; limousines; travel trailers; commercial vehicles as defined below; vehicles which are an eyesore; motorcycle delivery wagons; campers; recreational vehicles; mobile homes or mobile houses; truck mounted campers attached or detached from the truck chassis; motor homes or motor houses; motor vehicles not having any bodies whatsoever, or incomplete bodies; passengers automobiles that have been converted to a different type of motor vehicle by replacing the original body or by modifying the exterior of the vehicle; vehicles that are noisy, unsightly or junkers, or which have flat or missing tires; vans, unless permitted by Section 8.6 below; and boat and boat trailers; and other such motor vehicles. Notwithstanding anything in the paragraph to the contrary, ordinary passenger cars and trucks (excluding commercial vehicles and/or pickup trucks with camper tops) may be parked in a garage or in a driveway.

- B. Exceptions to A above. The following shall not be considered Prohibited Vehicles, subject to other provisions in this Declaration or in the Rules and Regulations of the Association not inconsistent with this Section 8.4:
1. Moving vans for the purpose of loading and unloading, but at no time during the hours of 5:00 p.m. to 8:00 a.m., nor from 5:00 p.m. Saturday to 8:00 a.m. Monday. Moving vans shall only be parked in the driveway, and may not be parked on any Lot for greater than twenty-four (24) hours.
 2. Vehicles, regardless of classification, necessary for the maintenance, care or protection of the Property, during regular business hours, and only for the time period during which the maintenance, care or protection is being provided.
 3. Service and delivery vehicles, servicing the Property, regardless of classifications, during regular business hours and only for that period of time to render the service or delivery in question.
 4. Vehicles for handicapped person, "handicapped" being defined by any fair housing law.
 5. Police and Emergency vehicles.

6. Certain vans which are permitted. A two-axle van as defined below which is not a commercial vehicle as defined below; which contains windows on the rear of the vehicle, on both sides of the vehicle adjacent to the first row of seating, and also at least one set of windows on each side of the vehicle beyond the windows adjacent to the first row of seating.
7. A pickup truck is permitted, so long as it does not have a camper top or the like, and is not a commercial vehicle as defined below.
8. Boats, recreational vehicles and trailers may be parked on a Lot for no greater than twenty-four (24) hours, and not more than once in any calendar month. Such vehicles cannot be parked on grass, and may not be visible from the street or from another Lot.

C. Classifications and Definitions.

1. The most current edition of the N.A.D.A. Official Used Car Guide ("Guide") shall determine the classification of whether a vehicle is in fact a truck or van. If the Guide does not contain reference to a particular vehicle, then the manufacturer's classification shall control.
2. If publication of the Guide shall be discontinued, an equivalent publication shall be selected by the Board of Directors to be used to determine vehicle classifications hereunder. Except as otherwise provided as to certain vans under Subsection B.6 above, a State registration or title classification shall have no bearing on determination of the classifications under this Section 8.4.
3. A "commercial vehicle" shall mean any motor vehicle which has an outward appearance of being used in connection with business, (e.g., the vehicle displays work equipment to view and/or is commercially lettered or contains a commercial or business logo). Actual use of the vehicle shall yield to its outward appearance. A vehicle with a covered sign or logo shall still be considered to be a commercial vehicle. A vehicle with a removable sign or logo shall not, with the sign/logo removed, be considered to be a commercial vehicle unless it meets the definition of "commercial vehicle" even without the sign or logo.
4. A "truck" shall mean any motor vehicle which is classified as a truck in accordance with Subsection C.1 above.
5. A "van" shall mean any motor vehicle which is classified as a truck in accordance with Subsection C.1 above, and which is recognized

by the manufacturer to be a type of a van, and which has two (2) axles.

D. The following additional regulations apply:

1. No repair (including changing of oil) of a vehicle shall be made on Properties except for minor repairs necessary to permit removal of a vehicle. Washing, waxing, or the changing of tires of a vehicle is permitted.
2. No motor vehicle which is of the type of vehicle which is unregisterable shall be driven or operated on any of the Property at any time for any reason, except for golf carts, which may be operated in the community, but must be stored in the garages at all times.
3. No motor vehicle, including moving vans, shall be parked at any time on the grass/swales of the Property (except for landscaping equipment at the direction of the Board of Directors).
4. Except where safety dictates otherwise, horns shall not be used or blown while a vehicle is parked, standing in or driving through parking areas. Racing engines and loud exhausts shall be prohibited.
5. No vehicle shall be parked such that it blocks any sidewalk, except where otherwise necessary by moving vans and then only for loading and unloading.
6. All vehicles must be in working order; no vehicles on blocks, jacks or ramps, shall be permitted.

E. Remedy of Towing. If upon the Association's provision of that notice required by Section 715.07, Florida Statutes and applicable County Ordinances, as amended from time to time, an offending vehicle owner does not remove a prohibited or improperly parked vehicle from the Property, the Association shall have the power and right to have the vehicle towed away at the vehicle owner's expense.

F. Alternative/Concurrent Remedies. Whether or not the Association exercises its right to have the vehicle so towed, the Association shall nonetheless have the right to seek compliance with this Section 8.4 by injunctive and other relief through the courts; and/or any other remedy conferred upon the Association by law or the Declaration, Articles of Incorporation and By-laws. The Association's right to tow shall in no way be a condition precedent to any other remedies available to the Association incident to the enforcement of this Section 8.4.

8.5 Nuisances, Ordinances and Laws. No Owner, Occupant or Guest shall use any of the Properties, or permit same to be used, in any manner which is unreasonably disturbing, detrimental or a nuisance to the Owner(s), Occupant(s) and Guest(s) of other Lot(s), or which would not be consistent with the maintenance of the highest standards for a first class residential development, nor permit the Properties to be used in a disorderly or unlawful way, nor which will produce an insurance risk for the Association or other Owners or Occupants. The use of each Lot shall be consistent with existing ordinances and laws and the Governing Documents, and Occupants shall at all times conduct themselves in a peaceful and orderly manner. No inflammables shall be stored anywhere on the Properties. Televisions, radios and musical instruments may only be used at such times and at such volume so as not to create a disturbance for other Owners and Residents.

8.6 Signs. No signs of any type shall be maintained, kept or permitted on any of the Properties, including Lot (interior or exterior) such that they may be viewed from the Common Area or other Lots; provided however, that the following shall not violate this Section 8.6:

- A. Official notices of the Association;
- B. One "For Sale" sign per Lot;
- BC. Signs on permitted vehicles under Sections 8.4.8 (1), (2), (3) and (5) above; and
- CD. Vehicle bumper stickers and parking decals (provided that the sticker or decal which does not indicate any Lot is for sale or for rent); and one sign advertising the vehicle for sale.

8.7 No Business Activity. No business or commercial activity or enterprise of any kind whatsoever shall be erected, maintained, operated, carried on, permitted or conducted on the Properties, including Lots; provided, however that the following shall not violate this Section 8.7:

- A. Any business which qualifies as a home occupation under the applicable zoning code shall be permitted. However, a day care or child care facility or operation (regardless of age) shall not be permitted, irrespective of whether same is a home occupation.
- B. The practice of leasing Lots.
- C. The business of operating the Association.

8.8 Trash and Garbage. No trash shall be discarded on any part of the Properties except in county-approved garbage receptacles, which may not be placed out for collection before sundown on the day before collection. All garbage and rubbish (~~excluding glass and newspapers~~) must be securely tied in plastic bags before being placed in garbage receptacles, unless the same is contrary to the procedures established by the county (or other garbage-collection authority). ~~Glass, newspapers and other recyclables shall be placed in separate receptacles supplied by the~~

~~Owner or collection authorities.~~ The foregoing is subject to any regulations and policies of the collection authorities and Rules and Regulations of the Association.

8.9 Solicitation. No business solicitation whatsoever shall be permitted in the Community, whether or not such solicitation is for the benefit of a non-profit organization, whether in person or by hand delivery of letters, without the permission of the Board of Directors of the Association. This shall not preclude an owner from inviting a person or firm to enter the Community for the purpose of contracting business with the Owner.

8.10 Leasing of Lots with Dwelling Structures.

- A. General. An Owner may lease only his entire Lot, and then only in accordance with the Declaration, ~~-. All leases and occupancies of persons other than the Lot Owner and his or her immediate family (which shall be defined as an Owner's spouse, parents, children or grandparents) shall be subject to without the need for Association approval as set forth in subsection F. herein. However, e~~Each Owner shall be required to advise the Association of any lease or change in occupancy, and the Association shall be permitted to adopt a form for the Owner and/or lessee to execute providing reasonable information relating to same.
- B. Contents of Lease Agreement. Every lease, whether oral or written shall contain, and if it does not contain, shall automatically be deemed to contain, the following:
1. The lessee and all occupants shall abide by all provisions of the Governing Documents and reasonable Rules and Regulations, as amended from time to time, and the failure to do so shall constitute a material default and breach of the lease.
 2. Any assessments or Charges, together with interest, late fees, costs and attorneys' fees, due and owing by the Owner/landlord shall be paid by the lessee directly to the Association, so long as the Association notifies the Owner/landlord and lessee of such sums due and owing, and lessee shall not be in breach of the lease for making such payments and deducting same from the rent due and owing to the landlord; the foregoing shall not change the fact that the Owner shall remain primarily liable for the payment of any and all such sums to the Association until same are paid in full.
 3. The parties recognize that the Association, as agent for the landlord/Owner, has the power to evict the tenants and occupants under Chapter 83, Florida Statutes, for violations of the Governing Documents and reasonable Rules and Regulations, as amended from time to time.

- C. Subleasing: Renting Rooms. Subleasing of a Lot shall be absolutely prohibited. Furthermore, no rooms shall be rented in any Lot. The intention is that only entire Lots may be rented, and Lots may not be sublet.
- D. Frequency of Leasing. No lease shall be made more often than twice in any 12 month period. For purposes of calculation, a lease shall be considered as made on the first day of the lease term. An Owner shall not be permitted to lease their unit during the first year after obtaining title to the Lot.
- E. Lease Terms. The minimum permitted lease term shall be six (6) months and the maximum permitted lease term shall be twelve (12) months.
- F. Notice and Approval. No Owner may lease or extend or renew the lease of a Lot, nor may any person other than the Owner of a Lot and his or her immediate family occupy the Lot, without the prior written approval of the Association obtained in the following manner:

The Lot Owner must provide written notice of the lease or occupant to the Association, together with the name and address of the intended lessee(s) or occupants, a screening fee per applicant in an amount as may be set by the Association from time to time, but in no event greater than the highest amount permitted by law (such fee shall not apply to extensions or renewals of previously approved applicants), and such other information concerning the intended lessee(s) as the Association may reasonably require.

As a condition of the application process for approval, all proposed lessee(s) and/or occupants must agree to a background investigation including, but not limited to, criminal history (including sexual predator registration history), credit and financial history, prior residential history and civil litigation history.

Approval. Upon receipt by the Association of the required Notice, screening fee(s) and all information reasonably required by the Association, as determined in the sole discretion of the Board, the Association shall have thirty (30) days in which to approve or disapprove the proposed lease, tenant or occupant. Any approval for lease or occupancy given by the Association shall be provided in writing to the Owner, and no lease of any Lot shall be valid without such approval.

Failure to Comply. Any lease, lease renewal or occupancy of a Lot in violation of the provisions in this Declaration shall be void ab initio. The Association may take any and all legal acts necessary to terminate any prohibited lease or lease extension or renewal, and the Association shall be entitled to recover its costs and reasonable attorney's fees from the Owner

and/or lessee(s) jointly and severally, through all appellate levels, whether suit is brought or not.

Disapproval. The Board may confer freely with counsel in reaching its decision with regard to approval or disapproval of any lease or lease renewal. Without limiting the Association's ability to disapprove of all leases and all occupants, a proposed tenant or occupant may be disapproved by the Association for any reasonable grounds, which reasonable grounds shall include, but not be limited to, the following:

1. The application for approval on its face, or subsequent investigation thereof, indicates that any of the persons seeking approval intends to act in a manner inconsistent with the covenants and restrictions applicable to the Association.
2. The person seeking approval has been convicted of or pled no contest to a felony crime involving violence to persons, demonstrating dishonesty or moral turpitude; a criminal offense involving illegal drugs; or a criminal offense involving sexual abuse, or lewd and lascivious behavior, or where the victim of the criminal offense was a minor;
3. The person seeking approval has a record of financial irresponsibility, including without limitation prior bankruptcies, foreclosures, bad debts, poor credit rating and/or a FICO score below 650 or the person does not appear to have adequate financial resources available to meet his/her obligations to the Association;
4. The person seeking approval has a history of disruptive behavior or disregard for the rights and property of others as evidenced by conduct in other social organizations or associations, or by conduct in this Association as a tenant, occupant, guest or Owner;
5. The person seeking approval or the Lot Owner has/have failed to provide the information required to process the application in a timely manner; has materially misrepresented any fact or information provided in the application or screening process; has failed to pay the transfer/approval fee or security deposit, or payment has been dishonored; or has not agreed, failed to provide, or refused to release to the Association the background investigation or has taken possession of the Lot prior to the time an application is made or before a decision is rendered by the Association.

6. All Assessments and other charges against the Lot have not been paid in full, or the Lot has outstanding violations previously noticed to the Owner that remain uncured.
7. Without limiting or altering the above, the person seeking approval has failed to meet any of the requirements set forth in this Declaration, or is otherwise unqualified due to any of the provisions of this Declaration, or any other applicable law.

The terms of this Section shall not apply to or otherwise serve to limit the rights of the Association to lease Lots it has acquired title to, through lien foreclosure actions or deeds in lieu of foreclosure.

8.11 Ownership; Transfer of Ownership of Lots. In order to maintain a community of congenial, financially responsible residents with the objectives of protecting the value of the Lots, inhibiting transiency, and facilitating the development of a stable, quiet community and peace of mind for all residents, the transfer of the ownership of a Lot shall be subject to the following provisions so long as the Community exists, which provisions each Owner of a Lot agrees to observe.

A. Forms of Ownership.

1. General. Except as otherwise provided in this Section 8.11, there is no limit as to how a Lot may be owned.
2. Life Estate. A Lot may be subject to a life estate, either by operation of law or by a voluntary conveyance approved under Section 8.11.8 below. In that event, the life tenant shall be the only Association member from such Lot, and the occupancy of the Lot shall be as if the life tenant was the only Owner. Upon termination of the life estate, the holders of the remainder interest shall have no occupancy rights unless separately approved by the Association. The life tenant shall be liable for all assessments and Charges against the Lot. Any consent or approval required of Association members may be given by the life tenant alone, and the consent or approval of the holders of the remainder interest shall not be required. If there is more than one life tenant, they shall be treated as co-owners.

- B. Transfer of Ownership of Lots. Owners may transfer title to Lots without ~~the need for~~ Association approval as set forth in subsection C herein. ~~However, e~~Each Owner shall be required to advise the Association of any transfer of ownership, and the Association shall be permitted to adopt a form for the Owner and/or purchaser/new owner to execute providing reasonable information relating to same.

- C. A Lot Owner intending to sell or transfer his Lot or any interest in it shall send by registered or certified mail, return receipt requested, to the Association at its principal place of doing business written notice of such intention, together with a screening fee per applicant in an amount as may be set by the Association from time to time, but in no event greater than the highest amount permitted by law (such fee shall not apply to extensions or renewals of previously approved applicants), and such additional information concerning the intended purchasers as the Association may reasonably require. In the event the application is for a sale, such notice, at the Lot Owner's option, may include a demand by the Lot Owner that the Association furnish a purchaser of the Lot if the proposed purchaser is not approved. If such demand is made, the notice shall be accompanied by a fully executed copy of the proposed contract to sell.

A Lot Owner who has obtained his title by gift, devise or inheritance, or by any other manner not previously considered, shall send by registered or certified mail, return receipt requested, to the Association at its principal place of doing business, notice of the acquiring of its title together with such information concerning the Lot Owner as the Association may reasonably require, including a certified copy of the instrument evidencing the Owner's title.

As a condition of the application process for approval, all proposed purchaser(s) and occupants must agree to a background investigation including, but not limited to, criminal history (including sexual predator registration history), credit and financial history, prior residential history and civil litigation history.

Approval. Upon receipt by the Association of the required Notice, fee(s) and all information reasonably required by the Association, as determined in the sole discretion of the Board, the Association shall have thirty (30) days in which to approve or disapprove the proposed purchaser(s) and occupant(s). Any approval given by the Association shall be provided in writing, and purchase of any Lot shall not be valid without such approval.

If the proposed purchaser of a Lot is a corporation, the approval of ownership by the corporation will be conditioned upon occupancy of the Lot being limited to one Officer or Director of the corporation and his immediate family (limited to sons, daughters, parents, spouse and parents of spouse) and guests. No guest may occupy the Lot unless the identified officer or a director or one of the listed family members is also present at the same time. The corporate owner shall provide to the Association a written certificate designating that Officer or Director who will occupy the

Lot owned by the corporation. The corporation may amend such designation of the Lot occupant only with the prior written approval of the Association and no more frequently than annually. The foregoing shall not limit the ability of the Owner to lease the Lot subject to Association approval as provided above.

Failure to Comply. Any transfer of a Lot in violation of the provisions in this Declaration shall be void ab initio. The Association may take any and all legal acts necessary to enjoin or reverse the transfer, and the Association shall be entitled to recover its costs and reasonable attorney's fees from the Owner and/or transferee jointly and severally, through all appellate levels, whether suit is brought or not.

Disapproval. The Board may confer freely with counsel in reaching its decision with regard to approval or disapproval of any transfer of the Lot. Without limiting the foregoing, the following circumstances shall be considered violations of these Covenants and Restrictions, and in the event of such circumstances the Association shall have no duty to provide a substitute purchaser, and the transaction shall not be made:

1. The application for approval on its face, or subsequent investigation thereof, indicates that any of the persons seeking approval intend to act in a manner inconsistent with the covenants and restrictions applicable to the Association.
2. The person seeking approval has been convicted of or pled no contest to a felony crime involving violence to persons, demonstrating dishonesty or moral turpitude; a criminal offense involving illegal drugs; or a criminal offense involving sexual abuse, or lewd and lascivious behavior, or where the victim of the criminal offense was a minor;
3. The person seeking approval has a record of financial irresponsibility, including without limitation prior bankruptcies, foreclosures, bad debts, poor credit rating and/or a FICO score below 650 or the person does not appear to have adequate financial resources available to meet his/her obligations to the Association;
4. The person seeking approval has a history of disruptive behavior or disregard for the rights and property of others as evidenced by conduct in other social organizations or associations, or by conduct in this Association as a tenant, occupant, guest or Owner;

5. The person seeking approval or the Lot Owner has/have failed to provide the information required to process the application in a timely manner; has materially misrepresented any fact or information provided in the application or screening process; has failed to pay the required fee or payment has been dishonored; has not agreed, failed to provide, or refused to release to the Association the background investigation; or has taken possession of the Lot prior to the time an application is made or before a decision is rendered by the Association.
6. All Assessments and other charges against the Lot have not been paid in full, or the Unit has outstanding violations previously noticed to the Owner that remain uncured.
7. Without limiting or altering the above, the person seeking approval has failed to meet any of the requirements set forth in this Declaration, or is otherwise unqualified due to any of the provisions of this Declaration, or any other applicable law.

The terms of this Section shall not apply to or otherwise serve to limit the rights of the Association to purchase Units, through lien foreclosure actions or deeds in lieu of foreclosure.

8.12 Antennae, Aerials and Satellite Dishes. No antennae, aerial or satellite dish shall be placed anywhere on the Properties such as same may be viewed from the exterior of Lot, except as shall be expressly permitted by rules adopted or to be adopted by the Federal Communications Commission pursuant to the Telecommunications Act of 1996. To the extent not prohibited by the Federal Communications Commission, the Architectural Committee shall be permitted to dictate the placement, type of screening and color of the antennae/satellite dish.

8.13 Solar Panels. Solar panels shall be permitted only as required by F.S. 163.04, as amended from time to time, and to the extent not prohibited by said statute, the ARB shall be permitted to dictate the placement, screening and color of same.

8.14 Laundry. No portion of the Properties shall be used for the drying or hanging of laundry, unless such laundry is adequately screened from public view, so that the laundry is not visible from any Lot; the foregoing is subject to F.S. 163.04, as amended from time to time.

8.15 Storms. Dwelling Structures may be boarded up or hurricane shutters closed only upon the issuance of a tropical storm or hurricane watch, which boarding must be removed or hurricane shutters opened within 24 hours after the storm danger has passed.

8.16 Garages. No garage shall be permanently enclosed or converted without the prior written approval of the ARB. The doors of all garages shall be kept in a useful operating condition

and shall be closed, except as needed for ingress and egress. No ventilation grills or other openings of any kind shall be made in any garage door. No garage may be used as living space, with garage use to be limited to storage and/or the parking of vehicles, trailers or boats.

8.17 Air Conditioners. Window or wall-mounted air conditioning units are prohibited.

8.18 Newspapers. No Owner or resident shall install or maintain any newspaper box on the Properties. All newspapers delivered to a Lot shall be brought inside daily and shall not be permitted to accumulate on any Lot or common area.

8.19 Fines. In addition to all other remedies (including all remedies available pursuant to the HOA Act, Chapter 720, Fla. Stat.), and to the maximum extent lawful, reasonable fines may be imposed upon a member or that member's tenant, guest or invitee for the failure of the owner of the parcel or its occupant, licensee, or invitee to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association, pursuant to the following:

- A. The amount of the fine shall be determined by the Board of Directors of the Association, but in no event shall the amount of the fine exceed the amount permitted by law. A fine levied in excess of the amount allowed by law shall not alter the validity of the fining process, but the fine shall simply be construed to be the maximum allowed by law. A fine may be levied in the amount determined by the Board for each day of a continuing violation, with a single notice and opportunity for a hearing. The aggregate amount of fines for a continuing violation may exceed \$1,000, and a fine of \$1,000 or greater may become a lien on the parcel, which lien may be enforced in any manner, including by foreclosure.
- B. A fine may not be imposed by the Board without at least fourteen (14) days' notice to the person sought to be fined and an opportunity for a hearing before a committee of at least three members appointed by the Board who are not Officers, Directors or employees of the Association, nor the spouse, parent, child, brother or sister of an Officer, Director or employee. If a hearing is requested by the person sought to be fined and if the committee, by majority vote, does not approve a proposed fine, it may not be imposed. The role of the committee is limited to determining whether to confirm or reject the fine levied by the Board.
- C. In satisfying the requirement that an Association provide reasonable notice and an opportunity for a hearing before a fine may be imposed, the Association may adopt a written procedure as part of the Association By-Laws or Rules. The procedure adopted by the Association shall be as follows unless subsequently changed by an amendment to this provision or by an amendment to the rules passed by the Board of Directors:
 1. The party against whom the fine is sought to be levied shall be afforded an opportunity for a hearing after reasonable written notice

of not less than fourteen (14) days. Said notice shall include:

- a. A statement of the provisions of the Declaration, Association By-Laws, or Association Rules which have allegedly been violated;
- b. A short and plain statement of the matter asserted by the Association; and
- c. The amount of the fines levied by the Board of Directors.

2. The party against whom the fine may be levied shall have an opportunity to request a hearing and, if such a hearing is requested, to respond, to present evidence, and to provide written and oral argument on all issues involved, and shall have an opportunity at the hearing to review, challenge and respond to any material considered by the Association.

D. Non-exclusive Remedy: These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; provided, however, any penalty 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.

~~8.19 Developer Rights. The applicability of Section 8 is limited by and subject to the paramount provisions of Section 12 below.~~

Section 9. INSURANCE AND CASUALTY. The insurance which will be carried upon the Properties in the Community shall be governed by the following provisions:

9.1 By the Association.

A. Duty and Authority to Obtain. The board of Directors shall obtain and keep in force the insurance coverage which it is required to carry under the Governing Documents, and may obtain and keep in force any or all additional insurance coverage as it deems necessary. The name of the insured shall be the Association and the Owners without naming them, and their mortgagees, as their interests shall appear.

1. The cost of insurance premiums and other incidental expenses incurred by the Association in administering and carrying out the provisions of this Section 9.1 shall be a common expense of the Association.

2. Premiums upon insurance policies may be financed in the manner as the Board of Directors deems appropriate.
3. The Association is hereby permitted to purchase insurance policies which contain deductibles.
4. The Board of Directors of the Association is empowered to adjust claims under any policies of insurance carried by the Association.
5. Each Owner shall provide insurance with respect to improvements made by the Owner, notwithstanding any provision to the contrary in this Section 9.

B. Required Coverage. The Association shall maintain adequate insurance covering the Common Areas in an amount determined annually by the Board of Directors in an amount equal to the maximum insurance replacement value. Such insurance shall afford the following protection:

1. Property and Casualty. Loss or damage by fire, extended coverage (including windstorm), vandalism and malicious mischief, and other hazards covered by the standard "All Risk" property contract for the items referenced above. The coverage must include the following, when same can be obtained:
 - a. Agreed Amount and Inflation Guard Endorsement; and
 - b. Demolition Costs Endorsement Contingent Liability from Operation of Building Loss Endorsement, and Increased Costs of Construction Endorsement.
2. Liability. Premises and operations liability for bodily injury and property damage in such limits of protection and with such coverage as required by the Board of Directors of the Association, with cross liability endorsement to cover liabilities of the Owners as a group, to an Owner.
3. Automobile. Automobile liability for bodily injury and property damage for all hired and/or non-owned motor vehicles in such limits and with such coverage as may be required by the Board of Directors of the Association.
4. Directors, Officers and Agents Liability Insurance. The Association, to the extent available, shall maintain liability insurance to protect the persons referred to in Section 12.1 of the By-laws.

- C. Description of Coverage. A detailed summary of the coverage included in the master policies, and copies of the master policies, shall be available for inspection by Owners or their authorized representatives upon request.
- D. Waiver of Subrogation. If available and where applicable, the Board of Directors shall endeavor to obtain insurance policies which provide that the insurer waives its right to subrogation as to any claim against the Association, Owners, or their respective servants, agents or guests, except for any claim based upon gross negligence evidencing reckless, willful and wanton disregard for life or property.
- E. Share of Insurance Proceeds. All insurance policies obtained by the Association shall provide that all proceeds covering property losses shall be paid to the Association.
- F. Reconstruction and Repair after Casualty.
 - 1. General. Any damage or destruction to the Common Area resulting from a casualty shall be repaired or reconstructed by the Association, substantially in accordance with the plans and specifications for the original improvements; or if such plans and specifications are lost or unavailable, then in accordance with plans and specifications approved by the Board of Directors of the Association.
 - 2. Common Area. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair of the damaged Common Area, or if at any time during the reconstruction and repair, or upon completion of the reconstruction and repair, the funds for the payment of the costs of reconstruction and repair are insufficient, the Association shall levy a Special Assessment against all Owners in sufficient amounts to provide funds for the payment of such costs. Notwithstanding the foregoing to the contrary, repair of damage or destruction to the Common Area is optional if this Declaration is terminated as provided for in Section 14 below.

9.2 By the Owners.

- A. Each Owner hereby covenants to maintain full casualty insurance coverage on those portions of his Lot, including improvements located thereon. Such coverage shall include loss by damage by fire and all other hazards covered by a standard extended coverage endorsement; all perils covered by the standard "all risk" endorsement; and an Inflation Guard Endorsement where obtainable. The Owners may, but shall not be required to, procure title insurance and insurance upon their personal property and for their personal liability and living expense.

B. All insurance purchased by Owners under this Section 9.2 shall be so purchased at their own expense.

C. All damage or destruction to any improvement referred to in Section 9.2.A above shall be repaired or reconstructed with improvements of at least similar size and type, and subject to the approval of the ARB; the provisions of Section 7 shall apply here.

Section 10. CONDEMNATION OR EMINENT DOMAIN. The circumstances of a taking of Common Area by the power of eminent domain and/or of any taking of Common Area or other Properties by way of condemnation, eminent domain or inverse condemnation shall be dealt with in such reasonable manner as determined to be appropriate under the circumstances by two-thirds of the entire Board of Directors. For the purposes of this Section 10, each Owner shall be considered as having sufficient property rights in and to the Common Area so as to be able to institute a claim directly against the taking authority.

Section 11. COMPLIANCE AND DEFAULT: REMEDIES.

1.1 Duty to Comply: Right to Sue.

A. Each Owner, his tenants, guests, and invitees, and the Association, shall be governed by and shall comply with the provisions of the corporate act, the Governing Documents, and the Rules and Regulations, and architectural guidelines of the ARB. Actions for damages, for injunctive relief, and/or for declaratory relief, for failure to comply may be brought by the Association or by an Owner against:

1. The Association;
2. An Owner;
3. By tenants, guests or invitees occupying a Dwelling Structure or using the Common Area; or
4. Any member of the Board of Directors who willfully and knowingly fails to comply with the foregoing.

B. No lawsuit of any kind shall be instituted and/or maintained unless the Association obtains the prior vote of not less than seventy-five (75%) percent of the voting interests of the entire membership of the Association. The arbitration proceeding referred to in Section 11 below may be instituted by the Association without said vote of the members. Notwithstanding the foregoing to the contrary, the following lawsuits shall not require such members' vote, and may be instituted and maintained by the vote of the Board of Directors alone:

1. Actions to enforce the Governing Documents, Rules and Regulations, or architectural guidelines of the ARB.
2. Actions to collect assessments and Changes due under the Governing Documents.
3. Actions against persons or entities with which the Association contracts.
4. Actions against any governmental authority.
5. The defense of any lawsuit (however, a counterclaim shall not be permitted unless it falls within any one or more of the foregoing exceptions).

11.2 Association Notice to Correct. Should any Owner fail to properly discharge his/her maintenance, repair and replacement obligations as provided for in Section 6 and in Section 9.2.C above; or shall fail to make and pay for maintenance, repair or replacement as provided for in Section 6 above; and in the judgment of the Board of Directors, same shall result in a condition of unsightliness tending to adversely affect the value or enjoyment of neighboring Owners and residents; or should any Owner violate Section 7 above; or should the neglect or the willful misconduct of Owner(s) cause damage which then requires maintenance, repair or replacement by the Association; then the following shall apply:

- A. The Board shall provide notice of such condition(s) to the proper Owner(s), demanding that the condition(s) be corrected within thirty (30) days from the date the notice was sent. In the event that the Owner does not rectify the condition at the end of this period, then the Association shall be entitled to contract to have the necessary work performed (and entry onto the Lot), whereupon the cost of this work shall become a Charge against the Owner and Lot concerned (solely or proportionately as the Board shall determine) and collectible as Charges are collected under this Declaration.
- B. This Section 11.2 is in addition to the rights of entry onto the Lots and Dwelling Structures as provided for in Sections 11.3 and 11.4 below.
- C. Provisos. Notwithstanding any provision to the contrary in this Section 11.2, the following shall apply:
 - {1}. The thirty (30) day notice period may be shortened or eliminated if the Board determines that an emergency exists to effect correction.
 - {2}. The thirty (30) day notice shall not apply to Section 11.3 below.

11.3 Negligence: Damage Caused by Condition in Lot. Each Owner shall be liable to the Association for the expenses of any maintenance, repair or replacement of Common Area made

necessary by his act or negligence, or by that of any member of his family or his guests, invitees, agents, or lessees. If any condition, defect or malfunction existing within a Lot or Dwelling Structure, whether caused by the Owner's negligence or otherwise, shall cause damage to the Common Area or to other Lots and Dwelling Structures, the Owner of the offending Lot shall be liable to the person or entity responsible for repairing the damaged areas, for all costs of repair or replacement not paid by insurance. If the Association effects correction, the cost shall be levied as a Charge against the Owner and Lot and collectible as Charges are collected under this Declaration; the Association may, but is not required to, provide notice to the Owner prior to effecting correction.

11.4 Association's Access. The Association, by and through the Board of Directors, officers, or the agents or employees of the Association, has an irrevocable right of access onto the Lots and Dwelling Structures for the purposes of inspection, maintenance, repair, replacement, alteration and improvement of those Properties for which it is obligated to maintain, repair and replace, and for which it is permitted to alter and improve, under this Declaration.

11.5 Owners Responsible. Owners are strictly responsible to ensure that their family members, guests, agents, lessees, etc. or any occupants of their Lots comply with the Governing Documents and Rules and Regulations of the Board of Directors and architectural guidelines of the ARB; as amended from time to time; and the statutes which apply; and as such, are responsible and liable to the Association for violations of same by their family members, guests, agents, lessees, servants, etc. or any occupants of their Lots.

11.6 Waiver of Rights. The failure of the Association or of an Association member to enforce any right, provision, covenant or condition which may be granted by the Governing Documents shall not constitute a waiver of the right of the Association or member to enforce such right, provision, covenant or condition in the future.

11.7 Costs and Attorneys' and Paralegal Fees. In any legal proceeding arising out of an alleged failure of an Owner (for himself/herself or for his/her family members, guests, agents, tenants and invitees or any occupants of the Lot), or the Association, or any tenants, guests or invitees occupying a Lot or using the common area, to comply with the Governing Documents or Rules or Regulations as amended from time to time, or corporate statute, the prevailing party shall be entitled to recover from the losing party, costs and attorneys' and paralegals' fees, including those incurred in appellate proceedings.

11.8 No Election of Remedies. All rights, remedies and privileges granted to the Association or Owners under any terms, provisions, covenants, or conditions of the Governing Documents or Rules and Regulations of the Association, or law, shall be deemed to be cumulative, and the exercise of anyone or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party from exercising such other additional rights, remedies, or privileges as may be granted by the Governing Documents, Rules and Regulations of the Association, or at law or in equity.

~~11.9 Common Area and Other Disputes with the Developer. In the event that there are any warranty, negligence or other claims against the Developer or any party having a right of~~

~~contribution from, or being jointly and severally liable with, the Developer (the "Claims") relating to the design, construction, furnishing or equipping of the Common Area, or other Properties, same shall be adjudicated pursuant to binding arbitration, rather than civil litigation, as permitted by the Florida Arbitration Code (the "Code"), Chapter 682, Florida Statutes, in the following manner:~~

- ~~A. — The party making the Claims, which shall include the Association as well as any lot Owner, (the "Claimant") shall notify the Developer in writing of the Claims, specifying with particularity the nature of each component thereof and providing a true and complete copy of each and every report, study, surveyor other document supporting or forming the basis of the Claims. Such notice shall be provided to the Developer within one hundred and twenty (120) days after the date for the Developer to relinquish control of the Board of Directors as provided for in Section 4.16 of the By-laws. The failure of the Association or any owner to provide the Developer written notice within such time period shall act as a bar to the Association or Owner filing any Claims against the Developer. Such bar shall not serve to permit the Association or any Owner to then file any Claim in court.~~
- ~~B. — Within thirty (30) days of receipt of the notice of the Claims, the Developer will engage, at its own expense, a duly licensed engineer or architect, as appropriate (the "Arbitrator") to serve as the arbitrator of the Claims pursuant to the Code. Such engineer or architect shall be independent of the Developer and the Claimant, not having any then-current business relationship with the Developer or Claimant, other than by virtue of being the Arbitrator. Upon selecting the Arbitrator, the Developer shall notify the Claimant of the name and address of the Arbitrator.~~
- ~~C. — Within thirty (30) days after the Developer notifies the Claimant of the name and address of the Arbitrator, the Claimant and the Developer shall be permitted to provide the Arbitrator with any pertinent materials to assist the Arbitrator in rendering his findings.~~
- ~~D. — Within sixty (60) days from the date of his appointment, the Arbitrator shall review the Claims and supporting materials, inspect the Common Area or other Properties in question, and all appropriate plans, specifications and other documents relating thereto, and render a report (the "Final Report") to the Developer and the Claimant setting forth, on an item by item basis, his findings with respect to the Claims and the method of correction of those he finds to be valid. If the Developer so requests, by written notice to the Arbitrator, the Arbitrator will specify the estimated cost of the correction of each of those Claims he finds to be valid and shall offset therefrom costs reasonably attributable to any Association failure to maintain or mitigate or to any contributory negligence, in all cases whether chargeable to the Claimant or others. At the request of the Claimant or Developer that a conference be held to discuss the Claims, such a conference shall be held, and the Arbitrator shall establish procedures, guidelines and ground rules~~

~~for the holding of the conference. The Claimant and the Developer shall be entitled to representation by its attorney and any other expert at the conference. In the event such a conference is held, the sixty (60) day time period referenced in this subsection (D) shall be extended as the Arbitrator deems warranted. At the conference, the Arbitrator shall notify the Developer and Claimant as to when the Final Report shall be issued.~~

~~E. The Developer shall have one hundred eighty (180) days after receipt of the Final Report in which to (i) correct the Claims found to be valid or (ii) pay to Claimant the amount estimated by the Arbitrator to be the cost to correct same after the offset referred to in subsection (D) above.~~

~~F. As to those matters the Developer elects to correct, upon the completion of all corrective work the Developer will so notify the Arbitrator (with a copy of such notice to the Claimant) and the Arbitrator shall then inspect the corrected items and render a report (the "Remedial Report") to the Developer and the Claimant on whether those items have been corrected.~~

~~Such procedure shall be repeated as often as necessary until all items have been corrected.~~

~~G. For all purposes, the Final Report and Remedial Report of the Arbitrator will constitute binding and enforceable arbitration awards as defined in Section 682.09 of the Code and any party affected by such reports will have the right to seek the enforcement of same in a court of competent jurisdiction. Moreover, no party will have the right to seek separate judicial relief with respect to disputes as defined above, or to seek to vacate the aforementioned arbitration awards, except in accordance with the Code, and then only upon the specific grounds and in the specified manner for the vacation of such awards as established by Section 682.13 of the Code.~~

~~H. The Arbitrator shall not be liable to the Association, the Claimant or the Developer by virtue of the performance of his services hereunder, fraud and corruption excepted.~~

~~I. The procedures set forth above shall also be the sole means by which disputes as to Association finances (including, without limitation, the Developer's payment of assessments, deficit funding obligations, if any, the handling of reserves, if any, and the keeping of accounting records), except that the Arbitrator shall be a Certified Public Accountant who (i) is a member of Community Associations Institute and (ii) meets the independence test set forth above.~~

~~J. In the event that there is any dispute as to the legal effect or validity of any of the Claims (e.g., as to standing, privity of contract, statute of limitations or laches, failure to maintain or mitigate, existence of duty, foreseeability,~~

~~comparative negligence, the effect of disclaimers or the interpretation of this Declaration as it applies to the Claims), such dispute shall be submitted to arbitration, as herein provided, by an attorney in good standing with The Florida Bar chosen by the Developer, which arbitrator shall be independent of the Developer and the Claimant as set forth above. In such event, all time deadlines which cannot be met without the resolution of such disputed matters shall be suspended for such time as the arbitration provided for in this subsection continues until final resolution.~~

~~K. No provision in this Section 11.9 shall confer standing which is not otherwise available to a party under law.~~

~~Section 12. DEVELOPER'S LOTS AND PRIVILEGES: DEVELOPER DESIGNEES~~

~~The following provisions shall apply in addition to any and all provisions contained elsewhere in this Declaration with respect to the Developer's Lots and privileges. The provisions of this Section 12 shall take precedence over any other provisions to the contrary in this Declaration, or in the Articles of Incorporation or By-Laws.~~

~~12.1 Changes in General Plan of Development. Until the completion of all of the contemplated improvements to the Properties in the Community and the sale of all Lots contemplated within the Community, the Developer reserves the right, without joinder of any person or entity, to make such changes to the General Plan of Development as may be required by any lender, governmental authority, or as may be, in his judgment, necessary or desirable; provided that any changes when made will provide facilities as good as or better than those shown on the development plans filed with the appropriate governmental authority.~~

~~12.2 Deposits and Payments. The Developer shall be entitled to receive back any and all deposits refunded by any utility company or governmental authority, and shall be entitled to payments received by the Association with respect to the construction of private street lights, if any.~~

~~12.3 Sales/Lease Activities. The Developer, until all of the lots contemplated within the Community have been sold and closed, shall be irrevocably empowered to sell, lease or rent lots to any person or entity approved by the Developer without any interference or objection from the Association, and without any limitation. Furthermore, the Developer reserves the right to retain title to any lots and lease all or portions of same, without any intention of selling them. The Developer shall have the right to transact upon the Properties any business necessary to consummate the sale/lease of lots, including, but not limited to, the right to construct, install, maintain and use temporary construction, office, storage and sales facilities, place signs, banners and flags on the Properties for construction or sales purposes; use the Common Area for sales offices or for sales and promotional purposes; and conduct sales activities relating to property owned by the Developer or any of its affiliates which are situated outside of the Community. Any sales office, signs, fixtures, furnishings or other tangible personal property belonging to the Developer shall not be considered as part of the Properties nor owned by the Association and shall remain the property of the Developer.~~

~~12.4 Special Provision Regarding the Developer's Designees. The Developer shall be permitted, without relinquishing any rights of the Developer hereunder, to designate certain builders and contractors (whether or not affiliated with the Developer) who shall be permitted to transact any business necessary to consummate the sale/lease of Lots, including, but not limited to, the right to maintain models, have signs, staff employees, maintain offices, use the Properties and show Lots. The Developer shall be permitted to impose limitation(s) upon anyone or more of said builders and contractors in connection with same. Any sales office, signs, fixtures or furnishings or other tangible personal property belonging to the particular builder and/or contractor shall not be considered as part of the Properties nor owned by the Association and shall remain the property of the particular builder and/or contractor.~~

~~12.5 Assessments, Charges and Liens: Common Expenses.~~

~~A. Assessment Obligations. The Developer and its Lots shall be excused from having to pay for operating expenses and assessments related to its Lots for the following time period, with the obligation of the Developer limited to the payment of operating expenses incurred by the Association that exceed the assessments receivable from other members and other income of the Association: Beginning with the date of recording of this Declaration until the Developer relinquishes control of the Board of Directors, or sooner if the Developer forwards to the Association written intention to terminate the foregoing; after which time the Developer shall pay assessments like any other Owner. For purposes of this Section 12.5.A, the term "operating expenses" shall exclude capital expenditures, reserves and depreciation, and the Developer shall have the right to apply any surplus from any previous year to any subsequent year before having to fund the deficit hereunder. Also for the purpose of this Section 12.5.A, the term "other income" shall include but not be limited to, capital contributions, if any, interest, fines, late fees and other fees collected by the Association.~~

~~B. Other Exemptions. The Developer's Lots shall be exempt from any obligation to pay interest or late fees with respect to non-payment of monies due and owing by the Developer to the Association, and at no time shall the Association be permitted to file a Claim of Lien against any Lot owned by the Developer. The Developer shall be entitled to injunctive relief and/or damages, including punitive damages, for any such liens filed.~~

~~C. Credits. The Developer shall be permitted to pay any common expenses of the Association, and when doing so, shall be entitled to credit/offset against any sums due and owing by the Developer to the Association.~~

~~12.6 Assignment and Assumption of Developer's Right and Privileges. The Developer hereby reserves the right to assign any or all of the rights of the Developer under the Governing Documents, in whole or in part, with respect to the Properties, to any other person or entity. In connection with such assignment, any assignee shall not be liable for any action of a prior developer. Any Institutional Mortgagee acquiring title to any of the Properties by foreclosure or~~

~~by a deed in lieu of foreclosure has the right, but not the obligation, to assume any of the rights and obligations of the Developer; and regardless of such assumption, shall have the right to assign any rights of the Developer under the Governing Documents to any subsequent purchaser from the Institutional Mortgagee.~~

Section 13. RIGHTS OF MORTGAGEES. The following rights shall apply to certain or all mortgagees, in addition to those rights contained elsewhere in the Governing Documents:

13.1 Amendments to the Declaration. Written consent of the Institutional Mortgagee of a Lot shall be required for any amendment to this Declaration referred to in Section 15.5.C below if such amendment impacts on the rights or interests of the Mortgagee.

13.2 Association Lien Foreclosure. Certain named mortgagees have certain rights in connection with Association lien foreclosure actions, as provided for in Sections 5.8.A and 5.11.E.1 above.

13.3 Redemption. If proceedings are instituted to foreclose any mortgage or lien on any Lot, the Association, on behalf of one or more Owners and with the permission of the mortgagee, may redeem the mortgage or lien for the amount due thereon and be thereby subrogated to all of the mortgagee's or lienor's rights of action, or the Association may purchase the Lot at the foreclosure sale. Any mortgagee shall have the right to accept title to the Lot in settlement and satisfaction of the mortgage or to foreclose its mortgage in accordance with its terms, and to bid upon the Lot at the foreclosure sale. If the Association or any of its members redeem the mortgage or cure the default, it or they shall have a lien against the Lot for all sums expended in connection therewith, and shall have the same rights to collect such sums as in the case of a past due assessment.

13.4 Right to Inspect Books. The Association shall make available to Institutional Mortgagees requesting same current copies of the Governing Documents and Rules and Regulations of the Association, and the books, records and financial statements of the Association. "Available" shall mean ready for inspection, upon written request, during normal business hours, or under other reasonable circumstances. Photocopies shall be provided at the expense of the person requesting them.

13.5 Financial Statement. Any Institutional Mortgagee is entitled, upon written request, to a copy of the financial statement of the Association for the immediately preceding fiscal year.

13.6 Lender's Notices. Upon written request to the Association, any Institutional Mortgagee shall be entitled to timely written notice of:

- A. Any 60-day or longer delinquency in the payment of assessments or charges owned by the Owner of any Lot on which the mortgagee holds a mortgage; and any 30-day or longer default of any other provision in the Governing Documents by an Owner of any Lot on which the mortgagee holds a mortgage.

- B. A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.
- C. Any condemnation or casualty loss that affects a material portion of the Community or the Lot securing its mortgage.
- D. Any proposed action that requires the consent of a specified percentage of mortgage holders.

13.7 Access. All Mortgagees shall specifically have a complete right of access to all of the Common Area, for the purpose of ingress and egress to any Lot upon which they have a mortgage loan.

13.8 Priority. All provisions of a real property mortgage in favor of an Institutional Mortgagee shall take precedence over the provisions of this Declaration, including the provisions of this Section 13. No breach of any of the provisions in the Declaration shall defeat or adversely affect the lien of any institutional mortgage at any time made in good faith and for a valuable consideration upon any Lot.

13.9 Presumption. Where an Institutional First Mortgage, by some circumstance fails to be a first mortgage but it is evident that it is intended to be a first mortgage, it shall nevertheless, for the purpose of this Declaration and Exhibits annexed hereto be deemed to be an Institutional First Mortgage.

Section 14. TERMINATION. The Community may be terminated in the following manner:

14.1 Agreement. The Community may be terminated at any time by the approval in writing by the Owners of ninety (90%) percent of Lots and by the record owners of mortgages on the Lots whose Owners are consenting in writing. Such Termination must comply with all applicable statutes, rules, licenses, permits or existing contracts or agreements with any governmental agency.

14.2 General Provisions. Upon termination, the former Owners shall become the Owner, as tenants in common, of all Common Area and the assets of the Association. The shares of such tenants in common shall be equal. The mortgagee or lienor of an Owner, shall have a mortgage or lien solely and exclusively upon the share of such tenant in common in and to the lands and other properties and rights which he may receive by reason of the termination. The termination of the Community shall be evidenced by a certificate of the Association executed by its president and secretary certifying as to facts effecting the termination. Termination shall become effective when that certificate is recorded in the Public Records of the County.

14.3 Sale: Partition.

- A. Except as may be provided otherwise in Section 14.4(8) below, following termination, the Common Area of the former Community may be partitioned and sold upon the application of any Owner. If following a

termination, at least seventy-five percent (75%) of the voting interests determine to accept an offer for the sale of the property, all Owners shall be bound to execute deeds and other documents reasonably required to affect the sale. In such event, any action for partition of the Common Area shall be held in abeyance pending the sale, and upon the consummation of the sale shall be discontinued by all parties thereto.

- B. If the proposed termination is submitted to a meeting of the membership of the Association, pursuant to notice, and is approved in writing within sixty (60) days of the meeting by three-fourths (3/4) of the voting interests of the members of the members of the Association, and by all Institutional Mortgagees, then the Association and approving Owners, if they desire, shall have an option to purchase all of the Common Area parcels of the other Owners within a period expiring one hundred twenty (120) days from the date of such meeting. Such approvals shall be irrevocable until the expiration of the option and if the option is exercised, the approvals shall be irrevocable. During this option period, and up through the date of closing on the option, no actions for partition shall lie. Option shall be exercised upon the following terms:

1. Exercise of Option. An Agreement to Purchase executed by the Association and/or the record Owners of the Common Area parcels with who will participate in the purchase, shall be delivered by personal delivery or mailed by Certified or Registered Mail, to each of the record Owners of the Common Area parcels to be purchased, and such delivery shall be deemed the exercise of the option. The Agreement shall indicate which Common Area parcels will be purchased by each participating Owner and/or the Association, and shall require the purchase of all Common Area parcels owned by Owners not approving the termination, but the Agreement shall affect a separate contract between the seller and his purchaser.
2. Price. The sale price for each Lot shall be the fair market value determined by agreement between the seller and the purchaser within thirty (30) days from the delivery or mailing of such Agreement and, in the absence of agreement as to price, it shall be determined by appraisers appointed by a Judge of the Circuit Court in and for the County, on the petition of the seller. The expense of appraisal shall be paid by the purchaser.
3. Payment. The purchase price shall be paid in cash.
4. Closing. The sale shall be closed within thirty (30) days following the determination of the sale price.

14.5 Last Board. The members of the last Board of Directors shall continue to have powers granted in this Declaration and in the Articles of Incorporation and By-laws for the purpose of winding up the affairs of the Association, notwithstanding the fact that the Association itself may be dissolved upon a termination.

14.6 Provisions Survive Termination. The provisions of this Section 14 shall be deemed covenants running with the land, and shall survive the termination of the Community until all matters covered by those provisions have been completed.

14.7 Priority/Conflict. In the event that there is any conflict between this Section 14 and Section 15 below, the language contained in this Section 14 shall control and govern.

Section 15. AMENDMENTS OF DECLARATION.

15.1 Proposal. Amendments to this Declaration may be proposed by the Board of Directors or by written petition signed by the Owners of one-fourth (1/4) of the Lots.

15.2 Procedure: Notice and Format. Upon any amendment or amendments to this Declaration being proposed as provided above, the proposed amendment or amendments shall be submitted to a vote of the members not later than the next annual meeting, unless insufficient time to give proper notice remains before that meeting. An amendment may be considered at the annual or a special members' meeting. The full text of any amendment to the Declaration shall be included in the notice of the Owners' meeting of which a proposed amendment is considered by the Owners. New words shall be inserted in the text by underlining and words to be deleted shall be lined through with hyphens; however, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantially rewording of Declaration. See provision for present text."

15.3 Vote Required. Except as otherwise provided by Florida law, or by specific provision of the Governing Documents, this Declaration may be amended by concurrence of not less than a majority of the entire Board of Directors and not less than a majority of the Members in attendance and voting in person or by proxy at a meeting of the Members at which a quorum is attained 2/3 of the voting interests of all members of the Association. If the amendments were proposed by a written petition signed by the Owners pursuant to Section 15.1 above, then the concurrence of the Board of Directors shall not be required.

15.4 Certificate: Recording: Effective Date. A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Declaration, which certificate shall be executed by any officer of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment, and any joinders and consents required, are recorded in the Public Records of the County.

15.5 Provisos. Notwithstanding any provision in this Declaration to the contrary, the following shall apply:

- A. ~~So long as the Developer controls the Board of Directors as provided for in the By-laws, this Declaration may be amended by the vote of the Developer alone; and after such control is relinquished, so long as the Developer owns any Lot in the Community, no amendment may be made without the written consent and joinder of the Developer.~~
- B. No amendment shall operate to unlawfully discriminate against any Lot or class or group of Lots.
- C. No amendment shall diminish or impair any of the rights, privileges, powers and/or options provided in this Declaration in favor of or reserved to record owners of any institutional mortgage unless the Institutional Mortgagee shall join in the execution of the amendment.
- D. Section 14 above concerning termination shall not be amended without the consent of all voting interests and all record owners of mortgages on the Lots.
- E. ~~Any amendment that affects the rights of the Master Association shall require the joinder and consent of the Master Association.~~

Section 16. MISCELLANEOUS PROVISIONS:

16.1 Severability. The invalidity or unenforceability in whole or in part of any covenant or restriction or any section, subsection, sentence, clause, phrase or word or other provision of this Declaration, or any exhibit attached thereto, shall not affect the remaining portions thereof.

16.2 Priorities in Case of Conflict. In the event of conflict between or among the provisions of any of the following, the order of priorities shall be from highest priority to lowest:

- A. Florida Statute § 617.0302
- B. Florida Statute § 720.301, et. Seqq.
- C. Other Florida Statutes which apply.
- D. This Declaration.
- E. The Articles of Incorporation.
- F. The By-laws.
- G. The Rules and Regulations promulgated by the Board of Directors, and architectural guidelines adopted by the ARB.

16.3 Interpretation. The Board of Directors is responsible for interpreting the provisions of this Declaration and its exhibits. Such interpretation shall be binding upon all parties unless wholly unreasonable.

16.4 Invalidity. In the event any court shall hereafter determine that any provisions of this Declaration as originally drafted, or as amended, violates the rule against perpetuities or any other rules of law because of the duration of the period involved, the period specified in the Declaration shall not thereby become invalid, but instead shall be reduced to the maximum period allowed under such rules of law, and for such purpose measuring lives shall be that of the (original) incorporator(s) of the Association.

16.5 Captions. The captions in this Declaration and in the Articles of Incorporation and By-laws attached hereto are inserted only as a matter of convenience and for ease of reference and in no way define or limit any provision in the Governing Documents.

16.6 Gender: Plurality. Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all or no genders.

16.7 Owners' Affirmative Duty. All Owners are charged with the affirmative duty to keep the Association notified, in writing, of his/her mailing addresses, as they change from time to time, including a second address for emergency in the event of a catastrophic event. The Owner shall also notify the Association of the name and address of any mortgagee holding a mortgage on his/her lot. The Association shall be permitted to rely on information supplied by Owners in writing.

16.8 Covenant Running with the Land. All provisions of the Governing Documents shall be perpetual and be construed to be covenants running with the Properties in the Community, and all of the provisions of the Governing Documents shall be binding upon and enure to the benefit of the Developer and subsequent owner(s) of Properties within the Community, and their respective heirs, personal representatives, successors and assigns. None of the provisions contained in the Government Documents are intended to create, nor shall be construed as creating, any rights in and for the benefit of the general public.

16.9 Duration. This Declaration, as amended from time to time, shall run and bind the Properties ~~in perpetuity for a period of twenty-five (25) years from the date of this Declaration, at which time the Declaration, as amended, shall automatically be renewed for successive periods of ten (10) years, unless and until terminated as provided in Section 14 above.~~