

**DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR
THE FALLS AT GRAND HARBOR**

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**DECLARATION OF COVENANTS, RESTRICTIONS
AND EASEMENTS FOR THE FALLS AT GRAND HARBOR**

This Declaration of Covenants, Restrictions and Easements ("Declaration") is made this 23 day of August, 2005, by GH VERO BEACH DEVELOPMENT LLC, A DELAWARE LIMITED LIABILITY COMPANY, (hereinafter referred to as the "Declarant") and is joined in by The Falls at Grand Harbor Property Association, Inc., a Florida not-for-profit corporation ("Association") and by Grand Harbor Community Association, Inc., a Florida not-for-profit corporation ("Grand Harbor Community Association").

RECITALS

WHEREAS, Declarant is the owner of certain real property located in Vero Beach, Indian River County, Florida, which is more particularly described in Exhibit "A" hereto (hereinafter referred to as the "The Falls at Grand Harbor" or "Property"), and

WHEREAS, Declarant wishes to subject the Property to the terms and conditions of this Declaration, and

WHEREAS, Declarant deems it desirable for the efficient preservation of the values and amenities of the Property to create the Association to which there should be assigned the powers of owning, maintaining and administering those portions of the Property which may be designated as "Common Areas" (as hereinafter defined) pursuant hereto and for the further purpose of administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created by this Declaration, and

WHEREAS, Declarant has caused the Association, the Members of which shall be the respective Owners of Lots in the Property, including the Declarant, to be formed for the purpose of exercising the aforesaid purposes and functions, and

WHEREAS, Declarant presently intends to undertake the sale or lease of those Lots within the Property pursuant to a general plan of development and subject to certain protective covenants, conditions, restrictions, reservations, easements, equitable servitudes, liens and charges, all running with said Property as hereinafter set forth. Declarant wishes to subject the Property to the terms and conditions of this Declaration and may execute, acknowledge and record Supplemental Declarations or Amendments (as hereinafter defined) so long as Declarant is the owner of any portion of the Property affected by such Supplemental Declarations or Amendments. Such Supplemental Declarations or Amendments may bring additional lands

under the provisions of this Declaration as hereinafter provided, and may impose further and additional restrictions, conditions and covenants for the operation, protection and maintenance of the Property, or such portions thereof or other lands, all as hereinafter set forth.

NOW THEREFORE, Declarant hereby declares that all of the real property described in Exhibit "A" attached hereto shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied, improved and otherwise dealt with, subject to the easements, covenants, conditions, restrictions, reservations, liens and charges, and equitable servitudes as hereinafter set forth, all of which are for the purpose of uniformly enhancing and protecting the value, desirability and attractiveness, and are in furtherance of a general plan of development for the protection, maintenance and improvement of the Property. The covenants, conditions, restrictions, reservations, easements, equitable servitudes, liens and charges set forth herein shall run with the title to the real property described in Exhibit "A" attached hereto and shall be binding upon all persons having or acquiring any right, title or interest therein or any part thereof, their heirs, personal representatives, successors and assigns and shall inure to the benefit of each and every person or entity from time to time owning or holding an interest in said real property or any portion thereof and shall further inure to the benefit of and be binding upon the Declarant, its successors and assigns and each other Owner, his respective heirs, personal representatives, successors and assigns and his tenants, invitees, licensees, and guests and may be enforced by an Owner, and his heirs, personal representatives, successors and assigns, by the Association, and by the Declarant so long as it is an Owner of any portion of the Property, including, but not limited to any Lots contained within the Property. This Declaration and any Supplemental Declaration or Amendment hereto shall not be deemed to be for the benefit of any holder of a mortgage or security deed or its successors and assigns, unless and until such holder has acquired title to a Lot pursuant to foreclosure or judicial proceeding or deed-in-lieu of foreclosure.

Notwithstanding the foregoing, no provision of this Declaration shall in any manner be construed as to prevent or limit the rights of Declarant or Declarant's Affiliates, as hereinafter defined, their designees, to complete the sale or lease of any portion of the Property and the construction of improvements thereon, nor Declarant's right to maintain models, construction, sales, Association or leasing offices, or similar or other facilities on any portion of the Property, nor the Declarant's right to post signs incidental to the sales, leasing or otherwise marketing of any portion of the Property.

ARTICLE I

DEFINITIONS

The following words and terms when used in this Declaration or any Supplemental Declaration or Amendment hereto affecting any portion of the Property (unless the context shall clearly indicate otherwise) shall have the following meanings:

Section 1. "Annual Assessment" shall mean and refer to the total annual assessment for the Association pursuant to the Annual Budget (as hereinafter defined) as further defined in **Article VI**.

Section 2. “Annual Budget” shall mean and refer to the estimated total expenditures for services to be provided by the Association and other expenses of the Association, as more particularly described in **Article VI** of this Declaration.

Section 3. “Architectural Review Board” or “ARB” shall mean and refer to the Architectural Review Board of the Association as more particularly described in **Article XI** of this Declaration.

Section 4. “Articles” shall mean and refer to the Articles of Incorporation of the Association filed with the Florida Secretary of State in the form attached hereto as Exhibit “B” as amended from time to time.

Section 5. “Assessment” shall mean any assessments made in accordance with this Declaration and as further defined in **Article VI**.

Section 6. “Association” shall mean and refer to THE FALLS AT GRAND HARBOR PROPERTY OWNERS ASSOCIATION, INC., a not-for-profit Florida corporation, its successors and assigns, being the entity responsible for the administration, and enforcement of performance of certain duties as hereinafter set forth in this Declaration and in the Articles and Bylaws.

Section 7. “Board of Directors” or “Board” shall mean and refer to the Board of Directors of the Association as said Board may exist from time to time.

Section 8. “Bylaws” shall mean and refer to the Bylaws of the Association attached hereto as Exhibit “C”, as amended from time to time.

Section 9. “Capital Contributions” shall have the meaning set forth in **Article VI, Section 12**.

Section 10. “Club Facilities” shall mean and refer to any land and facility adjacent to or in the vicinity of the Property or Community which is privately owned or leased by Declarant, Declarant’s Affiliates, their successors, successors-in-title, or assigns and which is operated as a private members only country club with recreational facilities supporting facilities and other improvements; provided, in the event that such property is transferred by Declarant to a successor-in-title, it shall be considered Club Facilities hereunder only if so designated by Declarant in a written, recorded instrument.

Section 11. “Club Owner” shall mean and refer to the fee title owner or leasehold owner of the Club Facilities (as defined in **Section 10** of this Article) as the same may exist from time to time.

Section 12. “Common Areas” shall mean all real property located within the Property or easements thereon, together with any improvements thereon, and any personal property situated thereat, which are actually deeded to, dedicated to, or otherwise acquired by the Association. Such Common Areas shall be designed and intended for the common, nonexclusive use of certain (or all) of the Owners and their tenants, guests, licensees and invitees. Common Areas shall include those areas designated as such herein or in any Supplemental Declaration hereto or by or on any plat where dedication thereon is made by Declarant, together with, if

applicable and to the extent provided herein, certain private roadways not otherwise dedicated to or owned by Grand Harbor Community Association (as hereinafter defined) landscaping and pedestrian areas, entry features, signs erected by Declarant to identify the Property or any portions thereof, irrigation and sprinkler systems, internal signalization and signage, areas surrounding canals or lakes and special design or landscaping features over or around such canals or lakes so long as such areas, special design or landscaping features, are not within an area dedicated to or maintained by the Grand Harbor Community Association and as long as the aforesaid items are within the Property.

Furthermore, Common Areas shall include such similar items or property which may hereafter be added to the Common Areas by Supplemental Declaration or otherwise regardless of whether any such items are capable of being legally described or lie within dedicated areas, together with the landscaping and any improvements thereon, including, without limitation, all structures, recreational facilities, open space, off-street parking areas, sidewalks, and other pedestrian paths (such as jogging and bicycle paths), street lights, walls, fountains, entrance features, but excluding the Club Facilities as defined in **Section 10** of this Article, any public utility installations thereon or any areas which have been dedicated to any public utility or special taxing district.

Without limiting the generality of the foregoing, it is specifically intended that the Common Areas shall include any and all subsequent capital improvements made by or at the direction of the Declarant and/or the Association beyond the initial installations and/or maintenance provided by any governmental or quasi-governmental entity to which applicable portions of the Property may now or hereafter be dedicated. In addition to the Association, Declarant shall have the right, subject to obtaining all required governmental approvals and permits, to construct or to have constructed on such Common Areas those facilities Declarant deems appropriate. All references herein to particular property or structures which are or may become part of the Common Areas are by way of illustration and example only, and Declarant shall be under no obligation to grant or construct such particular property or structures by reason of such references. Additionally, the timing, phasing and dates of completion of all such construction relative to Common Areas shall be solely within the discretion of the Declarant.

Declarant may, but shall not be obligated to specifically identify (by recorded legal description, signage, physical boundaries, site plans or other means) the Common Areas, although such identification shall not be required for a portion of the Property to be deemed a Common Area hereunder. Without limiting the generality of any other provisions of this Article, in the event that Declarant determines that a particular portion of the Property is or is not a Common Area hereunder, such determination shall be binding and conclusive.

It is specifically contemplated that the Common Areas may change from time to time in connection with changes in Declarant's development plans and other factors not now known. Accordingly, reference in this Declaration to the Common Areas shall be deemed to refer to same as they may exist from time to time.

Section 13. "Community Completion Date" shall mean the date upon which all Units in The Falls at Grand Harbor, as ultimately planned and as fully developed, have been conveyed by Declarant and all other persons or entities, if any, holding the rights of Declarant to Owners.

Section 14. “Community Systems” shall mean and refer to any and all cable television, telecommunication, alarm monitoring lines, street lighting, conduits, wires, amplifiers, towers, antennae, equipment, materials, installations and fixtures (including those based on, containing or serving future technological advances not now known) installed by Declarant or pursuant to any grant of easement or authority by Declarant within the Property and serving more than one Lot. Declarant shall be permitted, but shall not be obligated to install and/or cause the installation of Community Systems.

Section 15. “County” shall mean and refer to Indian River County, Florida.

Section 16. “Declarant” shall mean and refer to, GH VERO BEACH DEVELOPMENT LLC, A DELAWARE LIMITED LIABILITY COMPANY. Declarant may assign all or a portion of its rights hereunder, or all or a portion of such rights in connection with portions of the Property. In the event of such a partial assignment, the assignee shall not be deemed the Declarant unless expressly provided, but may exercise such rights of Declarant specifically assigned to it. Any such assignment shall be presumed to be on a non-exclusive basis, unless otherwise expressly stated.

Section 17. “Declarant’s Affiliates” shall mean and refer to those persons, corporations, partnerships, limited partnerships, limited liability companies, or other business entities in which the Declarant entity has an ownership or other proprietary interest or is expressly designated by Declarant as an affiliated entity relative to its use, operation, development of or other activities within the Property or Community.

Section 18. “Declaration” shall mean and refer to this instrument and all exhibits hereto as the same may be amended or supplemented from time to time.

Section 19. “General Expenses” shall mean and refer to the expenditures for maintenance, operation and the rendering of services required or authorized to be performed by the Association or its agents, designees, or assigns.

Section 20. “Grand Harbor Community” or “Community” shall mean and refer to those portions of the real property that are located in Indian River County, Florida, are the ‘Properties’ as such term is defined in the Grand Harbor Declaration, and such additional real property that is now or hereafter submitted to the Grand Harbor Declaration.

Section 21. “Grand Harbor Community Assessment” shall have the meaning set forth in **Article VI, Section 6**.

Section 22. “Grand Harbor Community Association” shall refer to Grand Harbor Community Association, Inc., its successors or assigns.

Section 23. “Grand Harbor Declaration” shall mean and refer to that certain Declaration of Covenants, Conditions and Restrictions for Grand Harbor Community Association, and all exhibits thereto recorded in Official Record Book 796, Page 163, Public Records of Indian River County, Florida and as now or hereafter amended.

Section 24. “Grand Harbor Documents” shall mean the Grand Harbor Declaration, Articles of Incorporation and Bylaws of the Grand Harbor Community Association all as now or hereafter amended, modified or supplemented.

Section 25. “Homeowners Documents” means in the aggregate this Declaration, the Articles of Incorporation and the Bylaws of the Association, the rules and regulations of the Association as well as the Grand Harbor Declaration, the Articles of Incorporation and Bylaws of the Grand Harbor Community Association, the typical form of Special Warranty Deed, the form of Contract for Purchase and Sale, the site plan or plat for the Grand Harbor Community and The Falls at Grand Harbor, and all of the instruments and amendments to same executed in connection with the Grand Harbor Community or The Falls at Grand Harbor.

Section 26. “Improvements” shall mean and refer to all structures of any kind, including, without limitation any building, fence, wall, sign, paving, grading, any addition, alteration, screen enclosure, sewer, drain, disposal system, decorative building, landscaping or landscaping device or object or other changes to the natural state of the Property and vegetation existing thereon.

Section 27. “Individual Assessments” shall mean and refer to assessments levied against particular Lots, Units and/or Owners to the exclusion of others and other charges against specific Lots or Owners as contemplated in this Declaration as further defined in **Article VI**.

Section 28. “Institutional Mortgagee” shall mean and refer to any bank, bank holding company, trust company or subsidiary thereof, savings and loan association, insurance company, union pension fund, mortgage company approved in writing by Declarant, an agency of the United States government, or Declarant, which holds a first mortgage of public record on any Lot, or part thereof, or other portion of the Property and the holder of any mortgage of public record given or assumed by Declarant, whether a first mortgage or otherwise, and their successors and assigns.

Section 29. “Institutional Mortgage” shall mean and refer to any mortgage of public record given or assumed by Declarant, whether a first mortgage or otherwise or any first mortgage of public record on any Lot or part thereof, or other portion of the Property, owned or held by an Institutional Mortgagee as said term is defined in **Section 28** of this Article.

Section 30. “Lot” shall mean and refer to any lot or tract of land within the Property, as amended from time to time, which is not a Common Area on the various plats or portions of the Property subject to this Declaration (and to the extent Declarant is not the Owner thereof, then designated by Declarant and joined by the Owner thereof), any such lot or tract shown upon any re-subdivision of any such plat, and any other parcel of property hereafter made subject to this Declaration, whether or not platted. “Lot” shall mean a Lot intended for use and development as a single-family detached unit and duplex units and facilities appurtenant thereto. In no event, however, shall any portion of a Community System be deemed part of a Lot unless and until same is made such pursuant to this Declaration.

Section 31. “Member” shall mean and refer to all those Owners who are Members of the Association as hereinafter provided.

Section 32. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or Unit, as applicable, situated within the Property. Owner shall not mean or refer to the holder of a mortgage or security deed or its successors and assigns, unless and until such holder has acquired title pursuant to foreclosure or judicial proceeding or deed-in-lieu of foreclosure.

Section 33. "Party Wall" the Units comprising each duplex building are residential house Units with common walls, known as "Party Walls", between each Unit that adjoins another Unit. The center line of a Party Wall is the common boundary of the adjoining Unit. The cost of maintaining each side of a Party Wall shall be borne by the Unit Owner using said side, except as otherwise provided herein. Each adjoining owner of a Party Wall, his heirs, successors, and assigns shall have the right to use same jointly with the other party to said wall as herein set forth. The term "use" shall and does include normal interior usage such as paneling, plastering, decoration, erection of tangent walls and shelving but prohibits any form of alteration which would cause an aperture, hole, conduit, break or other displacement of the concrete forming said Party Wall.

Section 34. "Property" shall mean and refer to that certain real property which is and shall be held, transferred, sold, conveyed, leased and occupied subject to this Declaration, more particularly described in Exhibit "A" hereto and any additions thereto in accordance with this Declaration, as it may be supplemented or amended from time to time. Real property may be added to or withdrawn from the Property in accordance with **Article II** of this Declaration.

Section 35. "Public Facilities" shall mean and refer to any building or other Improvement on the Property, the ownership or use of which is dedicated to the public or to a governmental or quasi-governmental agency. Such facilities may include, but are not limited to, public safety facilities, recreation/civic parks, and public utility facilities. Notwithstanding the foregoing, an area and improvements thereon may be deemed Public Facilities even if the use thereof may be restricted to residents of the Community.

Section 36. "River" for purposes of this Declaration and all exhibits hereto, when referred to herein or therein, shall be deemed to mean and refer to any river, harbor, channel, lake, estuary, marsh, pond, canal, creek, stream, water management tract or other water body within the Property, including, but not limited to the Indian River and other water bodies surrounding the Property or otherwise.

Section 37. "Special Assessments" shall mean and refer to assessments for services which the Association is authorized or required to provide, to the extent that the Annual Assessment is insufficient to fund such services. Such Special Assessments are more particularly described in **Article VI** of this Declaration.

Section 38. "Supplemental Declaration" or "Amendment" shall mean an amendment to this Declaration which subjects additional property to this Declaration, or which withdraws property previously submitted to this Declaration. Such Subsequent Declaration or Amendment may, but is not required to, impose, expressly or by reference, additional restrictions and obligations on any land submitted by a Subsequent Declaration or Amendment to the provisions of this Declaration.

Section 39. “Turnover Date” shall mean, unless turned over sooner by Declarant in its sole discretion, three (3) months after the date upon which ninety percent (90%) of the Units which will ultimately be built or Lots within The Falls at Grand Harbor have been conveyed by Declarant to Owners.

Section 40. “Unit” shall mean and refer to any single family detached dwelling, and duplex, and facilities appurtenant thereto that is or may be erected pursuant to the applicable zoning ordinance and/or site plan on any Lot, subdivision of a Lot or portion of a Lot within the Property. In no event shall a Unit be deemed to exist until it is substantially completed. Substantial completion as referenced herein shall mean issuance of a permanent Certificate of Occupancy by the applicable governmental body having jurisdiction over the Property. Notwithstanding any of the foregoing, no portion of any Community System shall be deemed to be part of a Unit unless and until same is made such pursuant hereto, if at all.

Section 41. “Zero Lot Line” shall mean the rear Lot line and side or sides of each Lot upon which all or a portion of a wall to a Unit may be constructed. If the Declarant constructs any Zero Lot Line Units on the Property, then the provisions of this Declaration referring to Zero Lot Lines and easements relating to Zero Lot Line Units shall be operative and shall apply to any Zero Lot Line Units constructed. If the Declarant does not construct any Zero Lot Line Units on the Property, then the provisions hereof relating to such Units shall not be operative or applicable.

Section 42. Interpretation and Flexibility. In the event of any ambiguity or question as to whether any person, entity, property or improvement falls within any of the definitions set forth in this Article, the determination made by Declarant in such regard (as evidenced by a recorded instrument stating same) shall be binding and conclusive. Moreover, Declarant may, also by way of a recorded instrument, alter or amend the application of any portion of this Declaration as to any specified portion(s) of the Property in order to reflect any unique characteristics thereof; provided, that such altered or amended application is not in the reasonable judgment of Declarant, unequivocally contrary to the overall uniform scheme of development for the Property.

ARTICLE II

DEVELOPMENT

Section 1. Development of Property. Declarant shall have the right, but not the obligation, for so long as Declarant owns any Lot or Unit primarily for the purpose of sale, to make improvements and changes to all Common Areas, and to all Lots or Units owned by Declarant, including without limitation: (i) installation and maintenance of any Improvements in and to the Common Areas; (ii) changes in the location of the boundaries of any Lots or Units owned by Declarant or of the Common Areas; and (iii) changes in the maintenance of any water, sewer, drainage, irrigation or other utility system or facilities.

Section 2. Addition of Property. Declarant may from time to time bring other land under the provisions of this Declaration and thereby add to the land which shall comprise the Property by executing and recording Supplemental Declarations or Amendments. Such Supplemental Declarations or Amendments shall not require the consent of then existing

Owners, the Association or any other individual or entity as long as the land being added thereby is within the Community. If Declarant is not the owner of the land to be subjected hereto and/or added to the Property as of the date the applicable Supplemental Declaration or Amendment is to be made, then the fee owner(s) of such land shall join in such Supplemental Declaration or Amendment. Once so added, such land shall be deemed a part of the Property which has been subjected to this Declaration for all purposes of this Declaration, except as modified. Nothing in this Declaration shall, however, obligate Declarant to add to the Property. Nothing contained in this provision or elsewhere in this Declaration shall preclude or limit the Association from entering into agreements to maintain property outside the physical boundaries of the Community if the Board of Directors of the Association determines to enter into such agreements.

All Owners, by acceptance of their deeds to, or otherwise acquiring title to their Lots thereby automatically consent to any rezoning, change, addition or deletion thereafter made by the Declarant and shall evidence such consent in writing if requested to do so by the Declarant at any time (provided, however, that the refusal to give such written consent shall not obviate the effect of this provision). As long as Declarant owns any Lot within the Property, no additions may be made to the Property, nor Supplemental Declarations or Amendments or Sub-Declarations be executed and recorded, without the prior written joinder and consent of the Declarant, which joinder and consent shall be in the sole and absolute discretion of the Declarant.

Section 3. Withdrawal. Declarant reserves the right to amend this Declaration unilaterally at any time, without prior notice and without the consent of any person or entity, for the purpose of removing any portion of the Property then owned by the Declarant or the Association from the provisions of this Declaration to the extent included originally in error or as a result of any change whatsoever in the plans for the Property desired to be effected by Declarant; provided, however, that such withdrawal is not, in the reasonable judgment of Declarant, unequivocally contrary to the overall, uniform scheme of development for the then remaining portions of the Property. Any withdrawal of land not owned by Declarant from the provisions of this Declaration shall not be effected without the written consent or joinder of the then owner(s) of such land. Notwithstanding anything to the contrary contained in this Declaration, and without limitation, all easements, use and other similar rights created or granted under this Declaration shall automatically cease and terminate, as if never created or granted, as to all land which is withdrawn from the Property in accordance herewith.

Section 4. Neighborhood Plan. Declarant reserves the right to modify the architectural appearance, dimensions, and plat for The Falls at Grand Harbor. Declarant's right to modify the architectural appearance, dimensions, and plat shall not require the consent of any other person or entity, except for approval, if required, of the Grand Harbor Community Association and applicable governmental authorities.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every person or entity who is an Owner shall be a Member of the Association. Notwithstanding the foregoing, any such person or entity who merely holds record ownership as security for the performance of an obligation shall not be a

Member of the Association unless and until such holder has acquired title to a Lot or Unit pursuant to foreclosure or judicial proceeding or deed-in-lieu of foreclosure. Membership shall continue until such time as the Member transfers or conveys record ownership or such ownership is transferred or conveyed by operation of law, at which time, the Membership, with respect to the property conveyed, shall automatically be conferred upon the transferee, subject to the approval of the Association as indicated in **Article XV** of this Declaration. Membership shall be appurtenant to and may not be separated from ownership of property subject to this Declaration.

Section 2. Association. As a Member of the Association, the Owner shall be governed by the Articles of Incorporation and the Bylaws of the Association; and shall be entitled to one (1) vote for each Lot owned. The rights and privileges of membership may be exercised by a Member or the Member's spouse, subject to the provisions of this Declaration and the Bylaws. The membership rights of a Lot owned by a corporation or partnership shall be exercised by the individual designated by the Owner in a written instrument provided to the secretary of the Association. Such designation shall not be changed more often than once every six (6) months.

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

Class A. Class A Members shall be all those Owners as defined herein with the exception of Declarant (as long as the Class B Membership shall exist, and thereafter, Declarant shall be a Class A Member to the extent it would otherwise qualify). Class A Members shall be entitled to one (1) vote for each Lot in which such Owner holds the interests required for membership by **Article III, Section 1** hereof. When more than one person holds such interest or interests in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they among themselves determine, but, in no event shall more than one vote be cast with respect to any such Lot.

Class B. The Class B Member shall be Declarant. The Class B Member shall be entitled to one (1) vote, plus two (2) votes for each vote which the Class A Members are entitled to cast in the aggregate at any time and from time to time. The Class B membership shall cease and terminate on the Turnover Date whereupon the Class A Members shall be obligated to elect a majority of the Board and assume control of the Association. Upon termination of the Class B membership, Declarant shall remain a Class A Member with respect to those Lots which are then still owned by Declarant.

Section 4. Membership in the Grand Harbor Community Association. Every Owner of a Lot or Unit, shall be deemed to have membership in the Grand Harbor Community Association. The votes of members other than Declarant shall be cast at meetings of the Grand Harbor Community Association by their voting Member ("Voting Member"). The Voting Member shall be a member who is appointed by the Board to act as the Voting Member and so designated in writing to the Grand Harbor Community Association. No Member except the Voting Member and Declarant may cast votes at a meeting of the Grand Harbor Community Association. This **Article III, Section 4** shall be subject to the terms of **Article III, Section 6**.

Section 5. Notice of Voting Member. The Association shall give written notice to the Grand Harbor Community Association of the person elected or designated as its

Voting Member, such notice to be given at or before the first meeting of the Grand Harbor Community Association which the Voting Member is to attend. The Grand Harbor Community Association and all other Voting Members (and their constituents) shall be entitled to rely on such notices as constituting the authorization of the Grand Harbor Community Association (and Members) to the designated Voting Member to cast all votes of the Association (and Members) and to bind same in all Grand Harbor Community Association matters until such notice is changed, superseded or revoked.

Section 6. Restrictions on Voting Rights Before Turnover. The terms of **Article III, Section 4** and the voting rights of Members and Owners as described therein, shall apply only after Declarant ceases to control the Association as provided herein; provided, however, that Declarant may at any time and from time to time request the vote of Members and Owners on certain Association matters before Declarant ceases to control the Association as provided herein.

Section 7. Changes in Voting Rights. Notwithstanding anything to the contrary contained herein, so long as Declarant controls the Association, Declarant shall have the right in its sole and absolute discretion to change the voting rights of any portion of the Property at any time and from time to time.

Section 8. Board of Directors. The Association shall be governed by a Board of Directors as provided for in the Articles and Bylaws of the Association. The Members of the Board of Directors shall be selected by Declarant until the Turnover Date pursuant to **Article XIV** of this Declaration. Thereafter, Directors shall be selected in the manner set forth in the provisions of this Declaration and pursuant to the Articles and Bylaws of the Association.

Section 9. Notices to Members. All notices, mailings and other documents provided or to be provided by the Association to Members shall be sent to each Member at the current address on file with the Association.

Section 10. General Matters. When reference is made in this Declaration, or in the Articles of Incorporation or Bylaws, or other relevant documents, to a majority or specific percentage of Members, such reference shall be deemed to be reference to a majority or specific percentage of the votes of Members, such reference shall be deemed to be reference to a majority or specific percentage of the votes of Members at a duly constituted meeting thereof (i.e., one for which proper notice has been given and at which a quorum exists) and not of the Members themselves or of their Lots or Units. To the extent lawful, the foregoing sentence shall apply to, without limitation, the establishment of a quorum at any applicable meeting.

Section 11. Declarant Rights. Nothing stated in this Article shall be deemed to, in any manner, impair or diminish any rights, reservations or easements granted to or reserved by the Declarant as stated elsewhere in this Declaration, the Articles and Bylaws or any exhibit hereto.

ARTICLE IV

COMMON AREAS

Section 1. Common Areas Generally. NOTWITHSTANDING ANYTHING HEREIN CONTAINED TO THE CONTRARY, THE DEFINITIONS OF "COMMON AREAS" AS SET FORTH IN THIS DECLARATION ARE FOR DESCRIPTIVE PURPOSES ONLY AND SHALL IN NO WAY BIND OR OBLIGATE DECLARANT TO CONSTRUCT OR SUPPLY ANY SUCH ITEM AS SET FORTH IN SUCH DESCRIPTION. FURTHER, NO PARTY SHALL BE ENTITLED TO RELY UPON SUCH DESCRIPTION AS A REPRESENTATION OR WARRANTY AS TO THE EXTENT OF THE COMMON AREAS TO BE OWNED, LEASED BY OR DEDICATED TO THE ASSOCIATION, EXCEPT AFTER CONSTRUCTION AND DEDICATION OR CONVEYANCE OF ANY SUCH ITEM. In addition, the following provisions shall be applicable to the Common Areas.

Section 2. Prior to Conveyance. Prior to the conveyance, identification and/or dedication of the Common Areas to the Association, any portion of the Common Areas owned by Declarant shall be operated, maintained, and administered at the sole cost of the Association for all purposes and uses reasonably intended, as Declarant in its sole discretion deems appropriate. During such period, Declarant shall own, operate, and administer the Common Areas without interference from any Owner or Lender of a Unit or Lot or any other person or entity whatsoever. Owners shall have no right in or to any Common Areas referred to in this Declaration unless and until same are actually constructed, completed, and conveyed to, leased by, dedicated to, and/or maintained by the Association. The current conceptual plans and/or representation, if any, regarding the composition of the Common Areas are not a guarantee of the final composition of the Common Areas. Declarant has no obligation or responsibility to construct or supply any such Common Areas of the Association, and no party shall be entitled to rely upon any statement contained herein as a representation or warranty as to the extent of the Common Areas to be owned, leased by, or dedicated to the Association. Declarant, so long as it controls the Association, further specifically retains the right to add to, delete from, or modify any of the Common Areas referred to herein.

Section 3. Construction of Common Areas. Declarant has constructed or will construct, at its sole cost and expense, certain facilities and improvements as part of the Common Areas, together with equipment and personalty contained therein, and such other improvements and personalty as Declarant determines in its sole discretion. Declarant shall be the sole judge of the composition of such facilities and improvements. Prior to the Community Completion Date, Declarant reserves the absolute right to construct additional Common Areas facilities and improvements within the Community, from time to time, in its sole discretion, and to remove, add to, modify and change the boundaries, facilities and improvements now or then part of the Common Areas. Declarant is not obligated to, nor has it represented that it will, modify or add to the facilities, improvements, or Common Areas as it is contemplated as of the date hereof. Declarant is the sole judge of the foregoing, including the plans, specifications, design, location, completion schedule, materials, size, and contents of the facilities, improvements, appurtenances, personalty (e.g., furniture), color, textures, finishes, of the Common Areas, or changes or modifications to any of them.

Section 4. Use of Common Areas by Declarant. Until the Community Completion Date, Declarant shall have the right to use any portion of the Common Areas, without charge, for any purpose deemed appropriate by Declarant.

Section 5. Conveyance. After the Community Completion Date, or earlier as determined by Declarant in its sole discretion, Declarant may transfer, convey or dedicate to the Association all or portions of the Common Areas in the form of plat dedications, easements, or written instrument recorded in the Public Records. The dedication, creation by easement, or conveyance shall be subject to easements, restrictions, reservations, conditions, limitations, and declarations of record, real estate taxes for the year of conveyance, zoning, land use regulations and survey matters. The Association shall be deemed to have assumed and agreed to pay all continuing obligations and service and similar contracts relating to the ownership operation, maintenance, and administration of the conveyed portions of Common Areas and other obligations relating to the Common Areas imposed herein. The Association shall, and does hereby, indemnify and hold Declarant harmless on account thereof. The Association, by its joinder in this Declaration, hereby accepts such dedications (or conveyances) without setoff, condition, or qualification of any nature. The Common Areas, personal property and equipment thereon and appurtenances thereto shall be dedicated or conveyed in "as is, where is" condition WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESSED OR IMPLIED, IN FACT OR BY LAW, AS TO THE CONDITION, FITNESS OR MERCHANTABILITY OF THE COMMON AREAS BEING CONVEYED.

Section 6. Operation After Conveyance. After the conveyance or dedication of any portion of the Common Areas to the Association, the portion of the Common Areas so dedicated shall be owned, operated and administered by the Association for the use and benefit of the Owners in the Community including, but not limited to, the Association, Declarant, Owners and any Lenders. Subject to the Association's right to grant easements, and other interests as provided herein, the Association may not convey, abandon, alienate, encumber, or transfer all or a portion of the Common Areas to a third party without (i) if prior to the Community Completion Date, the approval of (a) a majority of the Board; and (b) the consent of Declarant, or (ii) from and after the Community Completion Date, approval of (a) sixty-six and two-thirds percent (66 2/3%) of the Board; and (b) sixty-six and two-thirds percent (66 2/3%) of all of the votes in the Association.

Section 7. Delegation. Once conveyed or dedicated to the Association, the Common Areas and facilities and improvements located thereon shall, subject to the provisions of this Declaration and the document of conveyance or dedication, at all times be under the complete supervision, operation, control, and management of the Association. Notwithstanding the foregoing, the Association may delegate all or a portion of its obligations hereunder to a licensed manager or professional management company. The Association specifically shall have the right to pay for management services on any basis approved by the Board (including bonuses or special fee arrangements for meeting financial or other goals). Declarant and Declarant's Affiliates, shall have the right to manage the Association. Owners and the Association acknowledge that it is fair and reasonable to have Declarant or Declarant's Affiliates, manage the Association. Further, in the event that Common Area is created by easement or maintenance agreement, the Association's obligations and rights with respect to such Common Area may be limited by the terms of the document creating such easement or maintenance obligation.

Section 8. Use. The Common Area shall be used and enjoyed by the Owners on a non-exclusive basis in common with other persons, entities and corporations (who may, but are not required to be members of the Association) entitled to use those portions of the Common Areas. Prior to the Turnover Date, Declarant, and thereafter, the Association, has the right to make the Common Areas available to other individuals, persons, firms, or corporation, as it deems appropriate. The granting of such rights shall not invalidate this Declaration, reduce or abate any Owner's obligations pursuant to this Declaration, or give any Owner the right to avoid any of the covenants, agreements or obligations to be performed hereunder.

Section 9. Right to Allow Use. Declarant and/or the Association may enter into easement agreements or other use or possessory agreements whereby the Owners, Telecommunications Providers, and/or the Association and/or others may obtain the use, possession of, or other rights regarding certain property, on an exclusive or non-exclusive basis, for certain specified purposes. The Association may agree to maintain and pay the taxes, insurance, administration, upkeep, repair, and replacement of such property, the expenses of which shall be General Expenses. Any such agreement by the Association prior to the Community Completion Date shall require the consent of Declarant.

Section 10. Taxes, Maintenance, Insurance and Operation. The Association shall be responsible for providing for or obtaining the maintenance, insurance and operation of all Common Areas (whether or not conveyed or to be conveyed to the Association, but excluding any maintenance obligations for which any applicable water or drainage district, governmental agency or other governmental or quasi-governmental entity is responsible) in a continuous and satisfactory manner without cost to the general taxpayers of the County. It is intended that all real estate taxes assessed against that portion of the Common Areas owned, maintained or to be owned by the Association shall be proportionally assessed against and payable as part of the taxes of the Lots and Units within the Property. However, notwithstanding the foregoing, in the event that any such taxes are assessed directly against the Common Areas, the Association shall be responsible for the payment (subject to protest or appeal before or after payment) of the same, including taxes on any improvements and any personal property thereon accruing from and after the date this Declaration is recorded, and such taxes shall be prorated between Declarant and the Association as of the date of such recordation, whether or not owned by the Association.

Section 11. Obstruction of Common Areas. No portion of the Common Areas may be obstructed, encumbered, or used by Owners for any purpose other than as permitted by the Association and this Declaration.

Section 12. Assumption of Risk. Without limiting any other provision herein, each person within any portion of the Common Areas accepts and assumes all risk and responsibility for noise, liability, injury, or damage connected with use or occupation of any portion of such Common Areas, including, without limitation, (a) noise from maintenance equipment, (b) use of pesticides, herbicides and fertilizers, (c) view restrictions caused by maturation of trees and shrubbery, (d) reduction in privacy caused by the removal or pruning of shrubbery or trees within any portion of the Common Areas and (e) design of any portion of the Common Areas. Each person also expressly indemnifies and agrees to hold harmless Declarant, the Association, the Club Owner, and all employees, directors, representatives, officers, agents, and partners of the foregoing, from any and all damages, whether direct or consequential, arising from or related to the person's use of the Common Areas, including for attorneys' fees,

paraprofessional fees and costs at trial and upon appeal. Without limiting the foregoing, all persons using the Common Areas, including without limitation, any pool or area adjacent to a lake, do so at their own risk. BY ACCEPTANCE OF A DEED, EACH OWNER ACKNOWLEDGES THAT THE COMMON AREAS MAY CONTAIN WILDLIFE INCLUDING, WITHOUT LIMITATION, ALLIGATORS, FISH, RACOONS, DEER, FOWL, AND FOXES. DECLARANT, THE GRAND HARBOR COMMUNITY ASSOCIATION AND THE ASSOCIATION SHALL HAVE NO RESPONSIBILITY FOR MONITORING SUCH WILDLIFE OR NOTIFYING OWNERS OR OTHER PERSONS OF THE PRESENCE OF SUCH WILDLIFE. EACH OWNER AND HIS OR HER GUESTS AND INVITEES ARE RESPONSIBLE FOR THEIR OWN SAFETY.

Section 13. Owner's Obligation to Indemnify. Each Owner agrees to indemnify and hold harmless Declarant, Club Owner, the Grand Harbor Community Association and the Association, their officers, partners, agents, employees, affiliates, directors and attorneys (collectively, "Indemnified Parties") against all actions, injury, claims, loss, liability, damages, costs and expenses of any kind or nature whatsoever ("Losses") incurred by or asserted against any of the Indemnified Parties from and after the date hereof, whether direct, indirect, or consequential, as a result of or in any way related to the Common Areas, including, without limitation, use of the lake and other waterbodies within Grand Harbor Community by Owners, and their guests, family members, invitees, or agents, or the interpretation of this Declaration and/or exhibits attached hereto and/or from any act or omission of Declarant, Club Owner, the Grand Harbor Community Association or the Association, or of any of the Indemnified Parties. Should any Owner bring suit against Declarant, Club Owner, the Grand Harbor Community Association, the Association, or any of the Indemnified Parties for any claim or matter and fail to obtain judgment therein against such Indemnified Parties, such Owner shall be liable to such parties for all Losses, costs and expenses incurred by the Indemnified Parties in the defense of such suit, including attorney's fees and paraprofessional fees at trial and upon appeal.

Section 14. Rules and Regulations Governing Use of Common Areas. The Board shall promulgate rules and regulations governing the use of the Common Areas. Such rules and regulations, and all provisions, restrictions, and covenants as now or hereinafter provided, including, without limitation, all architectural and use restrictions contained in this Declaration and in the Grand Harbor Declaration may be enforced by legal or equitable action as provided herein or therein.

Section 15. Traffic Regulation. The Board shall have the right to post motor vehicle speed limits throughout the Common Areas, and to promulgate other traffic regulations, including parking regulations, towing illegally parked vehicles, maintaining emergency vehicle access to each Unit and marking or signing areas adjacent to fire hydrants or other fire connections to prohibit blocking access thereto. The Board may also promulgate rules and procedures for the enforcement of the traffic regulations, including, without limitation, the assessment of fines against Owners who violate the traffic regulations and against Owners whose family members, guests, invitees, licensees, employees, or agents violate the traffic regulations. The fines shall be collected in the same manner as an Individual Assessment which shall be a lien on such Owner's Lot in accordance with this Declaration. Before any fine shall be effective, the Owner shall be entitled to notice and an opportunity to be heard before the Board.

Section 16. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or the Bylaws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

ARTICLE V

EASEMENTS

Section 1. Members' Easements. Subject to the herein described rights of Declarant and/or the Association to prohibit certain classes of Owners from using certain portions of the Common Areas, each Member of the Association and each tenant, agent, licensee, and invitee of such Member, shall have and is hereby granted by Declarant a permanent and perpetual non-exclusive easement for the use and enjoyment of all Common Areas in common with all other such Members of the Association, their tenants, agents and invitees, subject, however to the withdrawal of portions thereof from the Property in accordance with this Declaration and further subject to this Declaration, the Articles and Bylaws of the Association and the rules and regulations promulgated by the Association and all Supplemental Declarations that may hereafter be recorded in the Public Records of Indian River County, Florida.

All Owners, by accepting title to Lots or Units conveyed subject to this Declaration, waive all rights of uncontrolled and unlimited access, ingress and egress to and from such Lot or Unit and acknowledge and agree that such access, ingress and egress shall be limited to roads, walkways, nature trails, paths, sidewalks and other Common Areas, located within the Property from time to time for such purposes provided that pedestrian and vehicular access to and from all Lots and Units shall be provided at all times. There is reserved unto Declarant, the Grand Harbor Community Association, the Association and their respective successors and assigns the right and privilege, but not the obligation, to hire persons and/or to maintain electronically-controlled gates controlling vehicular access to and from the Property. **In addition, in the event that an Owner is unable to access portions of their Lot or Unit without crossing or entering a portion of an adjoining Lot, Unit or Common Area, then such Owner shall have an easement of access over and upon such adjoining Lots, Units, and/or Common Areas for the purposes of allowing such Owner to (i) install, construct or establish improvements to such Owner's Lot or Unit; (ii) repair, maintain, replace and/or upgrade portions of such Owner's Lot or Unit; and (iii) access the rear of the Lot or Unit from the front of the Lot or Unit and access the front of the Lot or Unit from the rear of the Lot or Unit.**

All Members' rights of use and enjoyment of the Common Areas are subject to the following:

A. Easements over, under, across, through and upon the Common Areas in favor of any other associations now existing or hereafter created in accordance with this Declaration, for the purposes of enforcing the covenants, restrictions, rules or regulations of the Association as the same may be delegated to another association by the Association from time to time, and the Association and their Members, provided, however, that this subsection shall not in itself be deemed to grant any easements or use rights which are not specifically granted elsewhere herein or in any other documents to which the Property (or any applicable portion(s) thereof) are now or hereafter made subject.

B. The right and duty of the Association to levy and collect Assessments against each Lot, Unit and Owner thereof for the purpose of paying the General Expenses in compliance with the provisions of this Declaration and with the restrictions on the plats of portions of the Property from time to time recorded.

C. The right of the Association to suspend the right of an Owner and his designees to use the Common Areas (except for legal access) and common facilities for any period during which any applicable Assessment remains unpaid; and for a period not to exceed sixty (60) days for any infraction of lawfully adopted and published rules and regulations but only after notice to the affected Owner and failure of such Owner to cure within the period provided in said notice.

D. The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated on the Common Areas.

E. The right of the Association to adopt at any time and, from time to time, to enforce rules and regulations governing the use of the Common Areas and all facilities at any time situated thereon, including the right to prohibit use by and to levy fines against Members as elsewhere provided herein. Any rule and/or regulation so adopted by the Association shall apply until rescinded or modified as if originally set forth at length in this Declaration.

F. The right of the Association, by a unanimous affirmative vote of the Board of Directors, or the Declarant unilaterally (i.e., without the joinder or consent of the Association or any of its Members) to dedicate portions of the Common Areas to another association or a public or quasi-public agency, community development district, special taxing district or similar entity under such terms as the Association and/or Declarant deems appropriate and to create or contract with the Association and/or Declarant, community development and special taxing districts for lighting, roads, recreational or other services, security, communications, and other similar purposes deemed appropriate by the Association and/or Declarant (to which such creation or contract all Owners hereby consent).

G. Anything to the contrary in this Declaration notwithstanding, the Declarant shall have the right to permit persons other than Members and designated persons to use certain portions of the Common Areas and any recreational facilities that may be constructed thereon under such terms as Declarant, its successors and assigns, may from time to time desire without interference from the Association, Owners, their tenants, guests and invitees.

H. The right of the Declarant and the Association to have, grant and use general and specific easements over, under and through all or part of the Common Areas, and to modify, amend, terminate, supplement and relocate such easements.

I. The continuing right of the Declarant, Declarant's Affiliates, their designees, contractors, successors and assigns, to conduct such activities within the Property as are necessary in the sole judgment of Declarant to develop the Property, including, but not limited to, construction of Improvements therein and maintenance of the development and improvement and maintenance of the Property or any part thereof, as well as such activities as are necessary in the sole judgment of Declarant to sell or lease Lots or Units located within the Property and to own and operate Club Facilities. As a material condition for ownership of a Lot or Unit within the Property, each Owner, by accepting a deed to a Lot or Unit, whether or not so

stated therein, hereby releases Declarant, Declarant's Affiliates, and its and their partners, officers, directors, employees and agents from any alleged claim or cause of action, including but not limited to trespass or interference with his quiet enjoyment of his Lot or Unit or the Common Areas, due to the development of the Property or Community, whether or not the construction operations are performed on Lots, Units, or Common Areas, and each Owner acknowledges and agrees that Declarant and Declarant's Affiliates shall have the sole right of design, construction, development and improvement of the Common Areas and the Lots and Units within the Property and all other areas within the Community, as amended from time to time, in the sole discretion of Declarant and Declarant's Affiliates.

J. The Association shall have the right, but not the obligation, to perform remedial and continuing maintenance to Lots and Units and Improvements located thereon where it has been determined by the Association that the Lot Owner having responsibility for the maintenance of the subject property has failed to properly maintain in good condition the same as determined by the Association in its sole discretion. In such event, the Association shall provide written notice to the Owner indicating the failure of maintenance and requesting that such failure be remedied and abated within ten (10) days thereafter. If such failure is not remedied and abated within said time period, the Association shall have the right, but not the obligation to perform said maintenance and individually assess the Owner of the respective property for the cost of such maintenance and repair performed by the Association, or its designees. Notwithstanding the foregoing or anything else contained in this Declaration, the Association shall be free to perform maintenance of Units and Lots as elsewhere provided in this Declaration without the required prior notice as indicated in this paragraph.

K. The Association shall have an easement over all roadways, road rights-of-way, medians, and intersections within the Community for the purpose of performing street lighting, irrigation and landscape maintenance to such areas when and where the Association is expressly delegated maintenance responsibility as elsewhere may be provided in this Declaration.

L. The right of the Grand Harbor Community Association, the Association, the Club Owner and/or any governmental agency to enter any portion of the Community in order to comply with any applicable permits.

M. An Owner relinquishes use of the Common Area at any time that a Unit is leased to a tenant.

N. The Board shall have the right to post motor vehicle speed limits throughout the Community and to promulgate traffic regulations for the roads. The Board may also promulgate procedures for the enforcement of the traffic regulations, including, without limitation, the assessment of fines against Owners who violate the traffic regulations and against Owners, whose family members, guests, invitees, licensees, employees, or agents violate the traffic regulations. The fines will be levied as an Individual Assessment as set forth in **Article VI** hereof upon the Owner who violates the traffic regulations, or upon the Owner whose family members, guests, invitees, licensees, employees, or agents violate the traffic regulations. Before any fine shall be effective, the Owner shall be entitled to notice and an opportunity to be heard before the Board. Notwithstanding anything contained herein to the contrary, the foregoing shall be subject to the provisions in the Bylaws which provide for the assessment of fines.

O. The Board shall have the right to establish parking regulations throughout the Common Areas. The Board may also promulgate procedures for the enforcement of the parking regulations, including, without limitation the assessment of fines against Owners who violate the parking regulations and against Owners, whose family members, guests, invitees, licensees, employees, or agents violate the parking regulations. The fines will be levied as an Individual Assessment as set forth in **Article VI** hereof upon the Owner who violates the parking regulations, or upon the Owner whose family members, guests, invitees, licensees, employees, or agents violate the parking regulations. Before any fine shall be effective, the Owner shall be entitled to notice and an opportunity to be heard before the Board. Notwithstanding anything contained herein to the contrary, the foregoing shall be subject to the provisions in the Bylaws which provide for the assessment of fines.

P. The rights and easements reserved in **Article XIII, Section 3** hereof for the benefit of the Club Owner, its directors, officers, agents and employees.

Q. In case of any emergency originating in, or threatening the Property, the Community or any Unit, regardless of whether the Owner is present at the time of such emergency, the Board, or any other person authorized by the Board, or the management agent under a management agreement, shall have the right to enter a Lot or Unit for the purpose of remedying, or abating, the cause of such emergency, and such right of entry shall be immediate.

R. All of the provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association and all exhibits thereto, and all rules and regulations adopted by the Association, as same may be amended from time to time.

S. All of the provisions of the Grand Harbor Declaration, and the Articles of Incorporation and Bylaws for the Grand Harbor Community Association and all exhibits thereto, and all rules and regulations adopted by Grand Harbor Community Association, as same may be amended from time to time.

T. The right of the Declarant, Declarant's Affiliates, and the Association to enter into agreements with each other and other parties with respect to the maintenance and/or management of Common Areas, Community Systems and other areas within the Community, including but not limited to, the delegation or assignment of specific maintenance and/or management responsibilities as the Declarant or the Association may determine, from time to time. No contract, agreement or undertaking of any sort between or among the Association, its Directors, Officers, Members, Declarant and Declarant's Affiliates, shall be invalidated or affected by reason that any of them hold the same or similar positions with another condominium, homeowners or property owners association within the Property, or that they are financially interested in the transaction or that they are employed by the Declarant. In the event of any delegation or assignment of specific maintenance and/or management responsibilities by the Declarant or the Association, the assignee of such maintenance and/or management responsibilities shall have the right to subsequently reassign such maintenance and/or management responsibilities as were originally assigned to it to the Association, provided that such reassignment is in writing and is provided to the Association prior to the effective date of such reassignment. A reassignment of maintenance and/or management responsibilities shall in no manner affect assessment responsibilities of Owners pursuant to **Article VI** of this Declaration.

Section 2. Easements Appurtenant. The easements provided shall be appurtenant to and shall pass with the title to each Lot and Unit.

Section 3. Development, Sales and Construction Easements. The Declarant hereby reserves to itself, its successors and assigns, and creates in favor of Club Owner a perpetual non-exclusive easement, privilege and right in and to, over, under, on, and across the Common Areas, and all other portions of the Property, except for Lots and Units owned by persons or entities other than the Declarant, as well as across dedicated roadways, rights-of-way, and pedestrian paths for ingress and egress as required by Declarant and its officers, directors, employees, agents, independent contractors, licensees and invitees and designees for purposes of developing, constructing, improving, promoting, marketing, selling or leasing said Property and the Club to prospective purchasers, lessees and other invited guests, as well as to post signs and maintain sales and leasing offices; provided, however, that such access and use shall not unnecessarily interfere with the reasonable use and enjoyment of the Common Areas by the Owners. Declarant, Declarant's Affiliates, and their designees further reserve unto themselves, respectively, their successors and assigns, officers, directors, employees, agents and independent contractors, licensees and invitees perpetual non-exclusive easements for ingress and egress over, under, on, and across the Common Areas, dedicated roadways, rights-of-way and pedestrian paths within the Community for ingress and egress over said areas. Each Owner acknowledges that construction vehicles and trucks may use portions of the Lots and the Common Area and Declarant may use portions of the Lots and the Common Area for storage of construction materials. Declarant shall have no liability or obligations to repave, restore, or repair any portion of the Common Area as a result of the use of the same by construction traffic, and all maintenance and repair of such Common Area shall be deemed ordinary maintenance of the Association payable by all Owners as part of General Expenses. Without limiting the foregoing, at no time shall Declarant be obligated to pay any amount to the Association on account of Declarant's and the Club Owner's use of the Common Area for construction purposes. Declarant intends to use the Common Area for sales of new and used Units. Further, Declarant may market other residences and commercial properties located outside of the Property from Declarant's sales facilities located within the Property. Prior to the Community Completion Date, Declarant has the right to use all portions of the Common Areas in connection with its marketing activities, including, without limitation, allowing members of the general public to inspect model homes, installing signs and displays, holding promotional parties and picnics, and using the Common Areas for every other type of promotional or sales activity that may be employed in the marketing of new and used residential Units. The easements created by this Section, and the rights reserved herein in favor of Declarant, shall be construed as broadly as possible and supplement the other rights of Declarant set forth herein. At no time shall Declarant incur any expense whatsoever in connection with its use and enjoyment of such rights and easements.

Section 4. Community Systems. Declarant shall have the right, but not the obligation, to convey, transfer, sell or assign, all or any portion of the Community Systems located within the Property, or all or any portion of the rights, duties or obligations with respect thereto, to the Association, one or more other associations or any other person or entity (including an Owner as to any portion of a Community System located on/in its Lot). Without limiting the generality of any other provisions hereof, if and when any of the aforesaid entities receives such a conveyance, sale, transfer or assignment, such entity shall automatically be deemed vested with such rights of Declarant in connection therewith; provided that if the

Association is the applicable entity, then the Community System or applicable portions thereof shall be deemed Common Areas hereunder and the Association's rights, duties and obligations with respect thereto shall be the same as those as to other Common Areas unless otherwise provided by Declarant. Any conveyance, transfer, sale or assignment made by Declarant pursuant to this Section (i) may be made with or without consideration, (ii) shall not require the consent or approval of the Association or any Owner and (iii) if made to the Association, shall be deemed to have been automatically accepted with all rights, duties, obligations and liabilities with respect thereto being deemed to have been automatically assumed by the Association.

Section 5. Utility and Community Systems Easements. Public utilities in the Common Areas for the service of the Property shall be installed underground except as otherwise permitted by Declarant. The Declarant and its designees shall have a perpetual easement over, upon and under the Common Areas and the unimproved portions of the Lots for the installation, operation, maintenance, repair, replacement, alteration and expansion of Community Systems.

Section 6. Public Easements. Fire, police, health, school transportation, sanitation and other public service and utility company personnel and vehicles shall have a permanent and perpetual non-exclusive easement for ingress and egress over and across the Common Areas in the performance of their respective duties.

Section 7. Drainage Easements.

A. Non-exclusive easements for the installation and maintenance of drainage facilities shall exist in favor of the Association and Declarant, as shown, if any, on any recorded plats of the Property or any part thereof. Within these easement areas, no structure, planting or other material, other than sod, shall be placed or permitted to remain (unless installed by the Declarant, its designees, successors or assigns and replacements of same) which may interfere with such installation and maintenance or which may obstruct or retard the flow of stormwater. Notwithstanding the foregoing, sod and other plantings shall be permitted if the drainage easement is one which covers a buried pipe line and over which no surface drainage is to be maintained. The Association and Declarant shall have full access to all such drainage easements, for the purpose of operation and of maintenance thereof and shall not be held liable for any damage to or removal of any Owner's sod or other plantings caused by such operation and maintenance activities.

B. Each Lot and the Common Areas shall enjoy and shall be subject to a perpetual, non-exclusive cross easement of drainage and flowage in favor of all adjacent Lots and Common Areas and no Owner may construct or permit any Improvement or other structure or condition to exist upon his Lot which will interfere with stormwater runoff onto or from his Lot, except if constructed by the Declarant or its designees or assignees.

Section 8. Maintenance Easement. The Common Areas of the Property are hereby declared to be subject to a nonexclusive easement in favor of the Declarant, Association, employees and agents of either the Declarant or Association and of any management entity contracted by the Association in order that such employees, agents or management entity may carry out their lawful and proper duties and may have reasonable access to all portions of the Property dedicated to the Association or to be maintained by the Association as elsewhere provided in this Declaration or any plat recorded relative to the Property or any portion thereof.

Section 9. Association Easements. There is hereby created an easement in favor of the Association, and/or the ARB, as appropriate, and their applicable designees, over each Lot for the purpose of entering onto the Lot to enforce the covenants in this Declaration, including but not limited to the provisions of **Article XI** hereof regarding the ARB and all standards, rules or regulations promulgated pursuant to this Declaration.

Section 10. Air Conditioner System Easement. There is hereby created a perpetual, non-exclusive easement in favor of all adjacent Lots for air conditioner systems that are installed by the Declarant and for the replacement of such items from time to time. As such, any and all air conditioner systems installed by the Declarant (and the replacement thereof) shall have the right to encroach onto an adjacent Lot.

Section 11. Easements for Encroachments. Declarant hereby grants to the Association an easement for encroachments in the event any improvements upon the Common Areas now or hereafter encroaches upon a Lot. Declarant hereby grants to such Lot Owner an easement for encroachments in the event that the Unit on such Lot now or hereafter encroaches upon the Common Area or any other Lot (including without limitation the roof overhang and the exterior walls) as a result of minor inaccuracies in survey, construction, reconstruction, or due to settlement or movement or otherwise for as long as such encroachment exists. The encroaching improvements shall remain undisturbed as long as the encroachment exists. These easements for encroachment shall also include an easement for the maintenance and use of the encroaching improvements; provided, however, that at no time shall there be any encroachment onto the surface water management systems or drainage facilities, without the written consent of the Association and the St. John's Water Management District. Notwithstanding the preceding provision, no easement for encroachment shall exist as to any encroachment occurring due to the willful conduct of an Owner. The Association is granted an easement over each Lot for the purpose of enforcing the provisions of this Declaration and may go upon such Lot to remove or repair any existing cause of a violation of the Declaration. In the event that the Association, after notice to the Owner and a hearing and failure to cure by the Owner, does, in fact exercise its right to cure said defect, then all costs incident to said action by the Association shall become the personal obligation of the Owner and be imposed as an Individual Assessment.

Section 12. Grand Harbor Community Association Easements. The Grand Harbor Community Association and its agents, employees, contractors and assigns shall have an easement to enter onto the Property for the purpose of performing such functions as are permitted or required to be performed by such Grand Harbor Community Association by the Grand Harbor Documents, including, but not limited to, safety and maintenance activities, enforcement of architectural control restrictions and regulation of parking. All other easements and rights provided for in the Grand Harbor Documents in favor of the Grand Harbor Community Association, its respective members, are hereby granted to said Grand Harbor Community Association and its assignees, designees and nominees, and each Owner, by acceptance of a deed or other conveyance of a Unit, shall be deemed to have agreed to the grant and reservation of easements herein described and the rights herein vested in the Grand Harbor Community Association.

Section 13. Easement for Unintentional and Non-Negligent Encroachments. In the event any portion of any Lot or Unit encroaches upon another Lot or the Common Area as a result of the construction, reconstruction, repairs, shifting, settlement or moving of any portion of

the Lot (or improvements thereon), a valid easement for the encroachment exists. The Owner of each Lot shall have an easement of access over and upon adjoining Lots and the Common Areas Property for the purpose of allowing such Owner to maintain and repair the Unit (including, without limitation, the roof overhang and the exterior walls) as long as the encroachment exists. The encroaching improvements shall remain undisturbed as long as the encroachment exists. Notwithstanding the preceding provision, no easement for encroachment shall exist as to any encroachment occurring due to the willful conduct of any Owner.

Section 14. Support Easement and Maintenance Easement. An easement is hereby created for the existence and maintenance of supporting structures (and the replacement thereof) in favor of the entity required to maintain the same. An easement is hereby created for maintenance purposes (including access to perform such maintenance) over and across the Property (including Lots and Units) for the reasonable and necessary maintenance of Common Area, utilities, cables, wires and other similar facilities.

Section 15. Drainage Easement for Declarant, the Association and the Club Owner. A non-exclusive easement shall exist in favor of Declarant, the Association, the Club Owner, and any applicable water management district, state agency, and/or federal agency having jurisdiction over the Property over, across and upon the Property for drainage and water management purposes. An easement for ingress, egress and access shall exist for such parties to enter upon and over any portion of the Property (including Lots and Units) in order to construct, maintain, inspect, record data on, monitor, test, or repair, as necessary, any water management areas, conservation areas, and facilities thereon and appurtenances thereto. No structure, landscaping, or other material shall be placed or be permitted to remain which may damage or interfere with the drainage or irrigation of the Property and/or installation or maintenance of utilities or which may obstruct or retard these flow of water through the Property and/or water management areas and facilities or otherwise interfere with any drainage, irrigation and/or easement provided for in this Section or the use rights set forth elsewhere in this Declaration.

Section 16. Drainage Easement for Lots and Common Area. A non-exclusive easement shall exist over each Lot and the Common Area in favor of each other Lot and the Common Area Property in order to permit drainage and run-off from one Lot to another or to the Common Area, or from the Common Area to any Lot or Lots ("Common Area Drainage Easement").

Section 17. Club Easement. An easement is hereby granted over the Property to Club members, guests and invitees, and to the Club Owner and its officers, agents and employees, to permit the doing of every act necessary and incident to the playing of golf on the golf course on the Property and to permit the doing of every act necessary and incident to operating and maintaining the Club Facilities in the manner deemed appropriate by the Club Owner. These acts shall include, but not be limited to, holding of tournaments and special events, the recovery of golf balls from Lots and Common Area, the flight of golf balls over and upon the Lots and Common Area, the creation of the usual and common noise level associated with the playing of the game of golf, the creation of the usual and common noise level associated with maintaining the Club Facilities, the driving of machinery and equipment used in connection with maintaining the Club Facilities over and upon the roads, the Common Area and the Club Facilities, the spraying of effluent on the golf course for fertilizing and watering purposes, together with all such other common and usual activities associated with the game of golf and

with all the normal and usual activities associated with the maintenance and operation of the Club Facilities. Such noise may occur on or off the Club property, throughout the day from early morning until late evening. Declarant shall have the right to prescribe in writing to the Club Owner the manner and extent to which the rights under this easement shall be exercised. In addition, Declarant may, in its sole discretion, limit or withdraw or prohibit certain of the acts authorized by this easement, and may limit the manner or place of doing all or certain of the acts authorized by this easement.

Section 18. Easement for Golf Course. A non-exclusive easement is hereby granted for ingress and egress over, across and through the roads and golf cart paths, to and from the Club Facilities to Declarant, the Club Owner, and all Club members, guests and invitees, regardless of whether such members are also Owners. This easement is subject to reasonable rules and regulations promulgated by the Association from time to time.

The Lots, the Units and the Common Area are burdened with a perpetual, non-exclusive easement hereby created by Declarant permitting golf balls unintentionally to come upon the Lots, the Units and the Common Area from the golf course(s) adjacent to the Lots, the Units and the Common Area, if any, and for golfers at reasonable times and in a reasonable manner to come upon the Lots and the Common Area or the exterior portions of the Units to retrieve errant golf balls; provided, however, if any portion of the the Lots, the Units or the Common Area is fenced or walled, the golfer will seek Owner's permission before entry. The location of a Lot and Unit and/or a portion of the Common Area may result in nuisances or hazards to a Unit, a Lot and/or a portion of the Common Area as a result of operations of the golf course(s) adjacent to such Lot, Unit and/or Common Area. Each Owner, by acceptance of a deed to a Lot, or a Unit covenants for itself, its successors, successors in title, and assigns that it shall assume all risks associated with such location, including, but not limited to, the risk of property damage or personal injury arising from stray golf balls or actions incidental to golf course activities and shall indemnify and hold harmless Declarant and the Club Owner from any liability, claims or expenses including attorneys' (and paraprofessionals') fees, arising from such property damage or personal injury. Declarant reserves the right to impose upon all or certain of the Lots, the Units and/or all or a portion of the Common Area such other easements as are required for the operation of the golf course(s).

Section 19. Easements for Association. The Association its directors, officers, agents and employees, including, but not limited to, any manager employed by the Association and any employees of such manager, is granted an easement over the Lot of each Owner for the purpose of enforcing the provisions of this Declaration and may go upon the Lot of said Owner to remove or repair any existing cause of a violation of these provisions. In the event that the Association, after notice to the Owner, and failure to cure by Owner, does in fact exercise its right to cure said defect, then all costs incident to said action by the Association shall become the personal obligation of the Owner and be imposed as a lien against the Lot in same fashion as if said sums represented monies due for unpaid Assessments.

Section 20. Maintenance Easement. There is hereby reserved for the benefit of Declarant, the Association, the Grand Harbor Community Association and their respective agents, employees, successors and assigns, an alienable, transferable and perpetual right and easement to enter upon any Lot and upon unimproved portions of any Unit for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds, stumps or other unsightly

growth and removing trash, so as to maintain reasonable standards of health, fire safety and appearance within the Property, provided that such easements shall not impose any duty or obligation upon Declarant, the Association or the Grand Harbor Community Association to perform any such actions.

Section 21. Easement for Construction Access. The Owner of each Lot shall have an easement of access over and upon adjoining Lots and the Common Area for the purpose of allowing such Owner to (i) maintain, repair or replace roofs, walls, and fences, (ii) paint the exterior of the Owner's Unit's fence and wall; (iii) construct, maintain, repair or paint a Unit in the event of loss or destruction; and (iv) maintain, repair and replace air-conditioning compressors, air-conditioning equipment, meters and other equipment servicing such Owner's Lot which may be located on such adjoining Lots. Except in the event of emergencies, this easement is to be exercised only during normal business hours and then, whenever practicable, only upon advance notice to and with permission of the Owner directly affected thereby. The Owner shall be solely responsible for all maintenance, repair or maintenance obligations and shall indemnify and hold Declarant harmless from any and all debts, liens, claims, causes of action, administrative orders and notices, personal injuries, losses, damages, liabilities, demands, interest, fines, penalties and expenses, (including reasonable attorney's fees), etc., which may be incurred by Declarant arising out of the aforementioned repair, replacement, maintenance and/or construction obligations.

Section 22. Easement for Repair or Maintenance of a Unit. Declarant, its directors, officers, agents and employees is granted an easement over the Common Area, and the Lot of each Owner for the purpose of maintenance or repair of the Units in the Property. Notwithstanding the foregoing sentence, Declarant shall at all times have the right, but not the obligation to maintain or repair Units in the Property.

Section 23. Duration. All easements created herein or pursuant to the provisions hereof shall be perpetual unless stated to the contrary.

ARTICLE VI

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Purpose of Assessments. The Assessments for General Expenses provided for herein shall be used for the general purposes of promoting the recreation, welfare, common benefit and enjoyment of the Owners and occupants of the Property, and maintaining the Property and improvements therein, all as may be authorized in this Declaration, the Articles of Incorporation, the Bylaws and as may otherwise be determined from time to time by the Board of Directors. The Assessments levied by the Association shall be used for carrying out any lawful purpose of the Association as provided in this Declaration, Articles or Bylaws, including but not limited to the improvement, maintenance, enhancement and operation of the Common Areas and to provide services which the Association is authorized or required to provide including, but not limited to, the payment of taxes and insurance, constructing improvements, repair, replacement, payment of the cost to acquire labor, equipment, materials, management and supervision necessary to carry out its authorized functions, and for the payment of principal, interest and any other charges connected with loans made to or assumed by the Association for the purpose of enabling the Association to perform its authorized or required

functions. The Association may establish reserve funds to be held in an interest bearing account or investments as a reserve for (a) major rehabilitation or major repairs and deferred maintenance, (b) for emergency and other repairs required as a result of storm, fire, natural disaster or casualty loss, and (c) for such other purposes as specifically determined by the Board of Directors of the Association.

Section 2. Creation of Lien and Personal Obligation for Assessments. Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of a Lot, by accepting a deed for the Lot, is deemed to covenant to pay to the Association: (A) Annual Assessments to fund General Expenses for the benefit of all Members of the Association; (B) Special Assessments for capital improvements and other purposes as stated in this Declaration; (C) Individual Assessments which may be assessed against a Lot pursuant hereto for the Owner's failure to perform an obligation under the Homeowners Documents or because the Association has incurred an expense on behalf of the Owner under the Homeowners Documents; and (D) any other assessment (collectively, "Assessments"). All Assessments, together with fines, interest, costs, reasonable attorneys' (and paraprofessionals') fees and other expenses, will be a charge on the Lot, and will be a continuing lien upon the Lot against which each such Assessment is made until paid. Each such Assessment, together with fines, interest, costs, reasonable attorneys' (and paraprofessionals') fees and other expenses, will also be the personal and individual obligation of the Owner of such Lot as of the time the Assessment falls due, and two or more Owners of a Lot will be jointly and severally liable for such obligations. Suit to recover a money judgment for unpaid Assessments and related charges as listed above may be maintained without foreclosing or waiving the Assessment lien provided in this Declaration.

Section 3. Annual Budget of General Expenses. The Board of the Association shall prepare and adopt an Annual Budget at a meeting of the Board to be held not less than thirty (30) days in advance of the commencement of each fiscal year. The Annual Budget shall project the estimated total expenditures for the services that are to be provided by the Association and other expenses of the Association in the performance of its functions, duties and responsibilities under this Declaration, the Articles and Bylaws of the Association. The Association shall, at the same time as it prepares the Annual Budget, prepare a schedule which sets forth the Annual Assessment pursuant to the Annual Budget and the amount of the Annual Assessment for each Lot and Unit contained within the Property in accordance with the assessment rates as provided in **Section 7** of this Article.

Section 4. Special Assessments. To the extent that the Annual Assessment is insufficient to fund the services which the Association is authorized or required to provide, the Association, acting through its Board, may levy and collect in any assessment year, a Special Assessment to cover the cost thereof for that year only in accordance with the provisions of this Declaration and the Articles and Bylaws of the Association. Such Special Assessments may also be levied and collected for repairs, services, replacements or betterments necessary to be performed in the event of a casualty, catastrophe, Act of God or other unforeseen expenses incurred by the Association. Such Special Assessments shall be determined and assessed by the Board in accordance with same proportionate shares provided herein for the Annual Assessment. Any Special Assessment shall be approved by (i) Declarant, for so long as Declarant owns any Lot or Unit and (ii) by a majority of the votes of the Members of the Association who are voting at a meeting duly called for this purpose. The Board of Directors may make such Special Assessments payable in installments over a period which may, in the Board's discretion, extend

in excess of the fiscal year in which adopted. Notwithstanding the foregoing, Declarant shall not be responsible for the payment of Special Assessments on Lots or Units which it owns; **[DISCUSS CAP ON BOARD'S RIGHT TO ASSESS?]**

Section 5. Individual Assessments. The Association, through its Board of Directors, shall have the power and authority, from time to time, to fix, levy and collect Individual Assessments against an Owner for the cost of repairs or replacements within or without the Property for which the Owner, the Owner's family, lessees, guests or invitees are responsible, but which the Owner, Owner's family, lessees, guests or invitees have failed or refused to perform, and which failure or refusal has endangered or impaired the use or value of other Lots or Common Areas within the Property, as determined by the Board. Individual Assessments shall be collectible in such a manner as the Board of Directors shall determine. The Association shall have the further power to fix, levy and collect Individual Assessments against an Owner for those maintenance, deferred maintenance, repair, replacement, repainting, resurfacing or other services rendered by the Association for the benefit of a particular Owner and/or their Lot or Unit as the case may be. The Association may also levy Individual Assessments against any Owners who have caused the Association to incur special expenses due to willful or negligent acts of said Owners or their families, lessees, guests or invitees. The Association shall have the right to file a lien against the Lot or Unit, as applicable, of any Owner not paying any Assessment when due and may foreclose such lien as well as pursue any other remedies available to the Association, including, but not limited to, those available under this Declaration, the Articles and Bylaws, as the same may be amended from time to time.

Section 6. Grand Harbor Community Assessments. Each Owner of a Lot, by accepting a deed for the Lot, is deemed to covenant to pay assessments to the Grand Harbor Community Association as provided in the Grand Harbor Declaration and the Articles of Incorporation and Bylaws of the Grand Harbor Community Association. The Grand Harbor Community Association assessments shall be paid by the Owners to the Grand Harbor Community Association.

Section 7. Assessment Rates and Commencement Dates.

A. Assessment Rates. The share of Annual Assessments attributable to Lots shall be at a uniform rate so that all Lots are assessed equally.

B. Commencement Dates. The commencement of Assessments against each Lot or Unit, which is now or hereafter becomes subject to Assessments as aforesaid shall be the date upon which both of the following events have occurred: (i) a plat of such Lot is recorded in the Public Records of the County, and (ii) such Unit is substantially completed or the Lot contains a substantially completed Unit as evidenced by a Certificate of Occupancy issued for a Unit. The Annual Assessment shall be payable in advance in quarterly installments. The Assessment amount (and applicable installments) may be changed at any time by said Board from that originally stipulated or from any other Assessment that is in the future adopted. The Annual Assessment for any year shall be levied for the Association's fiscal year, but the amount of any revised Assessment to be levied during the period shorter than a full fiscal year shall be in proportion to the number of months (or other appropriate installments remaining in such fiscal year).

The due date of any Assessment shall be quarterly, unless otherwise fixed in the Board resolution authorizing such Assessment.

C. Common Areas and Certain Other Exempt Property. No Common Areas hereunder or any common areas of any other association or common elements of a condominium shall be subject to direct assessment hereunder (although the share of common elements appurtenant to a condominium unit shall be subject to the lien for assessments applicable to such unit). Further, the foregoing exemption shall apply to any land owned by a governmental entity or publicly-regulated utility company (including, without limitation, Florida Power and Light Co., Southern Bell, and St. John's Water Management District) as long as such land is used for or in connection with the provision of utilities (exclusive of business offices, retail outlets and the like). Any land within the Property which has not been platted by the Declarant or submitted to condominium ownership shall not be subject to Assessment under this Declaration. Notwithstanding the foregoing, in no manner shall a boundary plat or other subdivision map indicating the boundary of tracts or parcels of land within the Property constitute platting for purposes of this Section. In the event of any ambiguity or doubt as to whether any particular land is subject to assessment, the determination of the Declarant (or if the Declarant is no longer a Member of the Association, then the Board of Directors of the Association) shall be final and conclusive.

Section 8. Duties of the Board of Directors. The Board of Directors of the Association shall fix the date of commencement and the amount of the Assessment against each Lot and Unit for each assessment period, to the extent practicable, at least thirty (30) days in advance of such date or period, and shall, at that time, prepare a roster of the Lots and Units, the Owners thereof and Assessments applicable thereto, which shall be kept in the office of the Association and shall be open to inspection by any Owner.

Written notice of the applicable Assessment shall thereupon be sent to every Owner subject thereto thirty (30) days prior to the due date of the Assessment, or if the Assessment is payable in installments, thirty (30) days prior to the due date of the first installment. In the event no such notice of a new assessment period is given, the Assessment amount payable shall continue to be the same as the amount payable for the previous period, until changed in the manner provided for herein. Nothing contained herein shall be deemed to require the Association to provide more than one (1) notice of Assessment to be paid in installments during any assessment period. For example, if an Assessment is to be paid in monthly installments, one (1) written notice by the Association to each Owner, at least thirty (30) days prior to the due date of the first installment is sufficient notice under this Article.

The Association shall, upon request, furnish to any Owner liable for an Assessment a certificate in writing signed by an officer of the Association setting forth whether such Assessment has been paid as to any particular Lot or Unit. Such certificate shall be conclusive evidence of payment of any Assessment to the Association therein stated to have been paid.

The Association, through its Board of Directors, may make and levy Special Assessments in any calendar year in such amounts as are necessary to carry out the purposes of the Association as provided in this Declaration, the Articles and Bylaws. Such Special Assessments shall be made and levied by the Board of Directors as such Board deems

appropriate. Such Special Assessments shall include, but not be limited to, those amounts necessary to fund services provided by the Association to the extent that the Annual Assessment is insufficient to cover the costs of same and for repairs, services, replacements or betterments necessary to be performed in the event of a casualty, catastrophe, Act of God or other unforeseen expenses incurred by the Association.

The Association, through the action of its Board of Directors, shall have the power, but not the obligation, to acquire, by purchase, lease or otherwise, one or more Lots and/or Units and to enter into an agreement or agreements from time to time with one or more persons, firms or corporations for management services. The Association shall have all other powers provided herein and in its Articles of Incorporation and Bylaws.

Section 9. Effect of Non-Payment of Assessments; The Personal Obligation; The Lien; Remedies of the Association.

A. Lien. If any Assessment or any installment of an Assessment is not paid on the date when due, then such installment shall be delinquent and shall, together with late charges, interest and the cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the appropriate Lot or Unit, as applicable, which shall bind such Lot or Unit in the hands of the then Owner, and his heirs, personal representatives, successors and assigns. Except as otherwise provided herein, the personal obligation of the then Owner to pay such Assessment shall pass to his successors in interest and recourse may be had against either or both.

(i) Failure of a collecting entity to send or deliver bills or notices of Assessments shall not, however, relieve Owners from their payment obligations hereunder, including late fees, interest, attorneys fees and costs.

(ii) All Assessments, late charges, interest, penalties, fines, attorney's fees and other sums provided for herein shall accrue to the benefit of the Association.

(iii) Owners shall be obligated to deliver the documents originally received from the Declarant, containing this and other declarations and documents, to any grantee or lessee of such Owners.

B. Late Charge. If any Assessment or any installment of an Assessment is not paid within fifteen (15) days after the due date, at the option of the Association, a late charge not greater than twenty-five percent (25%) of the amount of such unpaid installment may be imposed (provided that only one late charge may be imposed on each unpaid installment).

C. Acceleration. In addition to any other remedy provided in this Article, the Association may declare all remaining installments of the Assessment to be accelerated and immediately due and payable in full. In the case of acceleration of all remaining installments, each installment so accelerated shall be deemed, initially, equal to the amount of the then most current delinquent installment, provided that if any such installment so accelerated would have been greater in amount by reason of a subsequent increase in the applicable budget, the Owner of the Lot or Unit whose installments were so accelerated shall continue to be liable for the balance due and payable by reason of such an increase and Special Assessments against such Lot or Unit shall be levied by the Association for such purpose.

D. Interest. All sums due shall bear interest from the dates when due until paid at the highest lawful rate (or, if there is no highest lawful rate, eighteen percent (18.0%) per annum).

E. Remedies.

(i) The Association may bring an action at law or equity against the Owner(s) personally obligated to pay the same and/or may record a claim of lien against the property on which the Assessments and late charges are unpaid, and may foreclose the lien against the property on which the Assessments and late charges are unpaid, or pursue one or more of such remedies at the same time or successively, and attorneys fees and costs of preparing and filing the claim of lien and pursuing the Association's remedies shall be added to the amount of such Assessments, interest and late charges. In the event a judgment is obtained, such judgment shall include all such sums as above provided and attorneys fees actually incurred in the applicable action together with the costs of the action, and the Association shall be entitled to attorneys fees in connection with any appeal of any such action. The Association may bid at any sale held pursuant to such foreclosure and apply as a cash credit against its bid all sums due the Association covered by the lien being enforced. The Board of Directors, by a majority vote, may in its discretion, settle and compromise said lien.

(ii) The Association shall have such other remedies for collection and enforcement of Assessments as may be permitted by applicable law. All remedies are intended to be, and shall be, cumulative.

F. Suspension of Use of Common Areas. In addition to the rights of collection of Assessments stated in this Section, any and all persons acquiring the title to or any fee interest in a Lot or Unit as to which any Assessment is delinquent, including, without limitation, persons acquiring title by operation of law and by judicial sale, shall not be entitled to the enjoyment of the Common Areas (except for roads or rights of way for ingress and egress to the Owners' Lot or Unit) until such time as all unpaid and delinquent Assessments due and owing from the selling Owner have been fully paid; provided, however, that the provisions of this sentence shall not be applicable to the mortgagees and purchasers contemplated in the immediately succeeding Section of this Article.

Section 10. Subordination of the Lien. The lien of the Assessments provided for in this Article shall be subordinate to real property tax liens and to the lien of any first mortgage recorded prior to recordation of a claim of lien by the Association, which first mortgage encumbers any Lot or Unit and is in favor of any Institutional Mortgagee or is otherwise insured by FNMA or FHLMC and is now or hereafter placed upon a portion of the Property subject to Assessment. Notwithstanding the foregoing, any such mortgagee when in possession, or any receiver, and in the event of a foreclosure, any purchaser at a foreclosure sale, and any such mortgagee acquiring title by a deed-in-lieu of foreclosure, and all persons claiming by, through or under any such purchaser or such mortgagee, shall hold title subject to the liability and lien of any Assessment coming due as of and after acquisition of title by such foreclosure (or conveyance in lieu of foreclosure). The order of priority of liens hereunder shall be: ad valorem tax liens, first mortgage liens held by an Institutional Mortgagee, liens for Assessments and liens for other association assessments (if any). Any unpaid Assessment which cannot be collected as a lien against any Lot or Unit by reason of the provisions of this Section shall be deemed to be an

Assessment divided among, payable by and a lien against all Lots and Units as provided in this Article, including the Lot or Unit as to which the foreclosure (or conveyance in lieu of foreclosure) took place.

Section 11. Effect on Declarant and Declarant Designees.

A. In addition to and notwithstanding any provision that may be contained to the contrary in this instrument, for so long as Declarant is the Owner of any Lot or Unit within the Community, the Declarant shall have the option, in its sole discretion, to (i) pay Assessments on the Lots or Units as to which it is the Owner, or, (ii) fund any deficit in the General Expenses of the Association by virtue of paying the difference between the Annual Assessment and the total of the Assessments paid by Lot and Unit Owners other than Declarant. The Declarant shall initially select either options (i) or (ii) above within three (3) months after the date upon which any Lot or Unit as to which the Declarant is the Owner, first become subject to this Declaration and, thereafter, Declarant may from time to time change options selected by giving written notice to such effect to the Association.

B. In addition to and not in lieu of the Declarant's election stated in **Section A** above, Declarant may from time to time elect to receive credits from the Association to be applied against any Assessments or other monetary obligations owed by Declarant to the Association for maintenance or other work performed or services provided by Declarant, its successors or assigns, as may be delegated or assigned to Declarant by the Association. The amounts of such credits shall be based upon the reasonable value of those maintenance functions and work performed or services provided by Declarant from time to time, as may be determined by Declarant, in its sole discretion. In no manner shall any credits granted to Declarant be used to decrease or otherwise diminish the Assessment obligations of Lot or Unit Owners other than Declarant under this Declaration. Nothing contained herein shall require Declarant to pay Assessments for Lots on which there does not exist a substantially completed building or Unit, as the case may be.

C. When all Lots within the Property are sold and conveyed to purchasers or are otherwise no longer owned by Declarant or when Declarant transfers control of the Board of Directors in accordance with the provisions of this Declaration, whichever occurs first, neither the Declarant, nor its affiliates shall have further liability of any kind to the Association for the payment of Assessments, whatsoever. Declarant shall have no obligation to fund reserves, of any kind, for the Association at any time.

Section 12. Capital Contribution. Each initial purchaser of a Lot or Unit (other than a Declarant designated builder purchasing for construction and resale) shall pay to the Association prior to obtaining approval of a proposed purchase and sale transaction or other transfer of title to a Lot or Unit, a one time only Capital Contribution, the amount of which shall be determined by the Board in its discretion, from time to time. In the event the purchase and sale transaction or other transfer of title is approved by the Association, the Capital Contribution shall be retained by the Association. In the event the purchase and sale transaction or other transfer of title is not approved in accordance with the provisions of this Declaration, the Capital Contribution shall be returned to the purchaser. The use and expenditure of Capital Contributions retained by the Association shall be determined by the Board of Directors, in its discretion.

Section 13. Association Funds. The portion of all Annual Assessments collected by the Association for reserves for future expenses, and the entire amount of all Special Assessments, shall be held by the Association and may be invested in interest bearing accounts or in certificates of deposit, money market accounts or other like instruments or accounts available at banks or savings and loan institutions, the deposits of which are insured by an agency of the United States of America.

Section 14. Annual Statements. Within sixty (60) days after the close of the fiscal year of the Association, the Association shall cause a financial statement to be prepared showing the actual assets and liabilities of the Association at the close of such fiscal year and a statement of revenues, costs and expenses. Such financial statements shall be available for inspection by all Owners. Upon written request, the Association shall furnish within ten (10) business days to each Member of the Association, and any holder, insurer, or guarantor of any Institutional Mortgage encumbering any of the Lots or Units, a copy of said financial statement at no charge to the Member making such request. The Association shall furnish such financial statements to the Declarant upon such statements being made available after the end of each fiscal year.

Section 15. Specific Damage. Owners (on their behalf and on behalf of their tenants, contractors, subcontractors, licensees, invitees, employees, officers, children and guests) causing damage to any portion of the Property, including, without limitation, the Common Areas, as a result of misuse, negligence, failure to maintain or otherwise shall be directly liable to the Association and an Individual Assessment shall be levied therefor against such Owner or Owners. Such Individual Assessments shall be subject to all of the provisions hereto relating to other Assessments, including, but not limited to, the lien and foreclosure procedures.

Section 16. Other Fiscal Provisions.

A. Funds. The funds of the Association shall be deposited in a bank or banks in the State of Florida, in one or more accounts for the Association under resolutions approved by the Board and shall be withdrawn only over the signature of the Treasurer or such persons as the Board may authorize. The Board may require more than one (1) signature on checks and bank drafts.

B. Fidelity Bonds. Fidelity Bonds may be required by the Board of Directors from Officers and employees of the Association and from any contractor handling or responsible for Association funds. The premiums for such bonds shall be paid by the Association as part of General Expenses of the Association.

C. Other Fiscal Procedures. The Board of Directors shall establish such audits, reviews or other fiscal procedures as determined by the Board necessary and may amend said procedures from time to time.

ARTICLE VII

MAINTENANCE OF UNITS AND LOTS

The following maintenance provisions concerning Units and Lots within the Property are intended to describe those maintenance obligations of the Association and of Owners. In

addition to the maintenance obligations and responsibilities described in this Article and in other provisions of this Declaration, the Articles and Bylaws, such maintenance responsibilities as may be imposed by Grand Harbor Community Association, shall be in addition to and not in lieu of the maintenance responsibilities of Owners described herein.

Section 1. Association's Responsibility. The Association shall maintain the landscaping, lawns, shrubbery and irrigation systems (including, without limitation, supplying water for irrigation purposes) which are exterior to the Unit and not within any walled patio, courtyard or lanai area of a Unit and the cost therefor shall be a General Expense of the Association.

The Association shall have the right, but not the obligation, to maintain property not owned by the Association where the Board has determined that such maintenance would benefit all Owners.

The Association shall perform its maintenance responsibilities hereunder in a manner consistent with the standards established pursuant to the Grand Harbor Declaration. Grand Harbor Community Association shall be authorized to assume the maintenance responsibilities of the Association hereunder and under the Grand Harbor Declaration, and to assess all costs thereof to the Owners as a neighborhood assessment pursuant to **Article X, Section 1** of such declaration.

Section 2. Maintenance.

A. The Association shall at all times maintain in good repair, operate, manage and obtain insurance for, and shall replace as often as necessary, the Common Areas, any and all Improvements situated on the Common Areas (upon completion of construction by Declarant), including, but not limited to, all recreational facilities, landscaping, paving, private roads, street lighting fixtures, sidewalks, Community Systems (to the extent same have not been made Common Areas) and other portions of the Property which are not maintained by another association or the Association, all such work to be done as ordered by the Board of Directors of the Association or its authorized agent. Maintenance of street lighting fixtures shall include and extend to payment for electricity consumed in their illumination. Without limiting the generality of the foregoing, the Association shall assume all of Declarant's (and its respective predecessors', if any) responsibility and obligations to the County, its governmental and quasi-governmental subdivisions and similar entities of any kind, with respect to the Common Areas, including, but not limited to, roads and entry features, and shall indemnify Declarant, Declarant's Affiliates, and their partners, officers, directors, employees and agents, and hold them harmless with respect thereto and hereby expressly release Declarant and Declarant's Affiliates from such responsibility and obligations.

B. The Association and Declarant shall not be liable for injury or damage to any person or property (i) caused by the elements or by any Owner or any other person, (ii) resulting from any rain, drought or other surface water which may leak, diminish, restrain or flow from any portion of the Common Areas, or (iii) caused by any pipe, plumbing, drain, conduit, appliance, equipment, security system or utility line or facility, the responsibility for the maintenance of which is that of the Association or Declarant. Nor shall the Association or Declarant be liable to any Owner for loss or damage, by theft or otherwise, of any property of

such Owner which may be stored in or upon any portion of the Common Areas or any other portion of the Property.

C. No diminution or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or to perform some function required to be taken or performed by the Association under this Declaration or for inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance or with any order or directive of any municipal or other governmental authority, the obligation to pay such Assessments being a separate and independent covenant on the part of each Owner.

D. Notwithstanding anything contained in this Article to the contrary, the Association shall not have the responsibility of maintaining any areas dedicated to a governmental or quasi-governmental agency or subdivision unless and until the Association expressly assumes written responsibility for the maintenance of such areas.

E. In the event of any conflict, ambiguity or uncertainty as to whether certain maintenance or other duties as to any portion of the Property falls within the jurisdiction of the Association, or another association, the determination of the Association shall control.

F. All maintenance and services performed or provided by the Association, and its agents or designees, pursuant to this Section and all expenses hereunder shall be paid for by the Association through Assessments imposed in accordance herewith. In order to effect economies of scale and for other relevant purposes, the Association, on behalf of itself and/or all or appropriate associations, shall have the power to incur, by way of contract or otherwise, General Expenses as to the Property or appropriate portions thereof, and the Association shall then have the power to allocate portions of such expenses among the affected associations, based on such formula as may be adopted by the Association or as otherwise provided in this Declaration. The portion so allocated to any other association, if any, shall be deemed an expense thereof, collectible through its own assessments.

G. No Owner may waive or otherwise escape liability for the Assessments for such maintenance by non-use (either voluntary or involuntary) of the Common Areas or abandonment of his right to use the Common Areas.

H. In the event any maintenance, repair, construction or re-construction of any portion of the Common Areas are necessitated by the negligent or willful acts or omissions of an Owner or his guests, tenants, invitees, or family, such expense shall be borne solely by such Owner and his Lot or Unit, as applicable, which shall be subject to an Individual Assessment for such expense. In addition to and not in lieu of such Assessment, the Association has the right but not the obligation to enforce any other remedies available to it at law and in equity against any responsible party for such negligent or willful acts or omissions.

Section 3. Owner's Responsibility. Except as provided in **Section 1** above, all maintenance and repair of the Unit, including, but not limited to, painting and/or staining of the exterior of the Unit, other exterior maintenance of the Unit, the courtyard, patio, lanai or walled area of any Unit (including any pool, plantings or landscaping located in such area), maintaining the Unit in a neat, clean, and attractive condition, shall be the responsibility of the

Owner thereof. Maintenance and repair shall be performed in accordance with the architectural standards contained in **Article XI** of this Declaration, and such other design guidelines as may be promulgated pursuant thereto. All exterior paint colors must be approved prior to painting by the ARB. Any change from the original fixtures or other ornamentation required for the maintenance of the exterior of the completed Unit shall, likewise, be first approved by the ARB. In addition, the Owner shall maintain all pipes, lines, ducts, conduits, or other apparatus which serve only the Unit, whether located within or without a Unit's boundaries (including all gas, electricity, water, sewer or air conditioning pipes, lines, ducts, conduits, chimney flues, if any, {which are to be regularly cleaned} or other apparatus serving only the Unit). Such maintenance shall be performed in accordance with this Declaration. Maintenance and painting of the exterior of the Unit shall be the responsibility of the Unit Owner.

The minimum (though not sole) standard for the foregoing shall be the general appearance of the Property (and the applicable portion thereof as aforesaid) as initially landscaped (such standard being subject to being automatically raised by virtue of the natural and orderly growth and maturation of applicable landscaping, as properly trimmed and maintained).

In the case of any casualty, all Owners are required to rebuild, repair or replace any Unit that is subject to casualty damage by virtue of windstorm, fire, rain, hurricane or any other such event. All reconstruction shall be identical in appearance to structures in existence prior to such casualty, unless alterations are approved in advance by the ARB as required under **Article XI** of this Declaration.

The Board of Directors of the Association shall have the power, but not the obligation, to adopt minimum maintenance standards in connection with each Lot and Improvements located thereon. Such standards shall be in addition to those obligations of Owners as stated in this **Article VII** and may be changed from time to time by the Board of Directors of the Association, in its sole discretion. Any minimum maintenance standards established pursuant to this **Article VII** need not be recorded.

Any land not deemed to be a Common Area, but which exists up to the centerline of any unimproved road right of way which a Lot abuts shall be maintained by the Owner of such abutting Lot in the same manner and at the same time as the Lot is maintained, unless the Association, or Declarant expressly assumes such maintenance responsibilities.

Section 4. Remedies for Noncompliance. In the event of the failure of an Owner to maintain or cause to be maintained, or to repair or replace, his Unit or Lot in accordance with this Article, the Association shall have the right, but not the obligation, upon five (5) days, prior written notice to the Owner at the address for such Owner last appearing in the records of the Association, to enter upon the Owner's Lot or Unit and perform such work as is necessary to bring the Lot or Unit, as applicable, into compliance with the standards set forth in this Article and as may be determined by the Board of Directors from time to time. Such work may include, but shall not necessarily be limited to, the cutting/trimming of grass, trees and shrubs; the removal (by spraying or otherwise) of weeds and other vegetation; the resodding or replanting of grass, trees or shrubs; the repainting or restaining of exterior surfaces of a Unit; the repair or replacement of walls, fences, roofs, doors, windows, swimming pools and other portions of a Unit or other structures on a Lot and such other remedial work as is judged necessary by the applicable entity. The remedies provided for herein shall be cumulative with all

other remedies available under this Declaration, or other applicable Covenants or Deed Restrictions (including, without limitation, the imposition of fines or Special Assessments or the filing of legal or equitable actions, the filing of liens for this work plus attorneys' (and paraprofessionals') fees and costs).

Section 5. Costs of Remedial Work; Surcharges. In the event that the Association performs any remedial work on a Unit or Lot pursuant to this Declaration or any Supplemental Declaration or Amendment, the costs and expenses thereof shall be deemed an Individual Assessment under this Declaration and may be immediately imposed by the Board of Directors of the Association or its designee. In order to discourage Owners from abandoning certain duties hereunder for the purpose of forcing one of the aforesaid entities to assume same, and, additionally, to reimburse same for administrative expenses incurred, the applicable entity may impose a surcharge of not more than twenty-five percent (25.0%) of the cost of the applicable remedial work (or the maximum amount permitted by applicable law, whichever is less), such surcharge to be a part of the aforesaid Individual Assessment. No bids need be obtained for any of the work performed pursuant to this Article and the person(s) or company performing such work may be selected by the applicable enforcing entity in its sole discretion without requirement of any bonds whether fidelity, labor, materials, payment or performance. Every Owner agrees for himself and family Members that they will hold harmless the Association, its Officers, Directors, agents and employees from any action undertaken pursuant to this Section.

Section 6. Right of Entry. There is hereby created an easement in favor of the Association and its applicable designees, over each Lot for the purpose of entering onto the Lot in the performance of the work herein described, provided that the notice requirements of this Article are complied with and any such entry is during reasonable hours.

Section 7. Maintenance of Individual Lots by Association. Notwithstanding anything to the contrary herein contained, if the Association agrees to voluntarily assume exterior maintenance responsibilities of Lots on a uniform basis, the Owners of Lots shall be relieved of such maintenance responsibilities during such time as the Association has agreed to perform such exterior maintenance services. The cost of such exterior maintenance and other services related thereto rendered by the Association shall be assessed against the Lots as part of the General Expenses to be included in the Annual Assessment.

ARTICLE VIII

RULES AND REGULATIONS

Section 1. Generally. Prior to the Community Completion Date, Declarant, and thereafter the Association, shall have the right to adopt rules and regulations governing the use of the Common Area. The rules and regulations need not be recorded in the Public Records. The Common Area shall be used in accordance with this Declaration and rules and regulations promulgated relating thereto.

Section 2. Declarant Not Subject to Rules and Regulations. The rules and regulations are intended to apply to completed Units only, and shall not be applied in a manner which would prohibit or restrict the development of the Community or adversely affect the

interests of Declarant. Without limiting the foregoing, Declarant, and/or its assigns, shall have the right to: (i) develop and construct, Units, Common Area and related improvements within the Community, and make any additions, alterations, improvements, or changes thereto or to rezone the property within the Community; (ii) maintain sales offices (for the sale and re-sale of (a) Units and (b) residences and properties located outside of the Community), general office and construction operations within the Community; (iii) place, erect or construct portable, temporary or accessory buildings or structures within the Community for sales, construction storage or other purposes; (iv) temporarily deposit, dump or accumulate materials, trash, refuse and rubbish in connection with the development or construction of any portion of the Community; (v) post, display, inscribe or affix to the exterior of any portion of the Common Area or portions of the Community owned by Declarant, signs and other materials used in developing, constructing, selling or promoting the sale of any portion the Community including, without limitation, Lots and Units; (vi) excavate fill from any lakes or waterbodies within and/or contiguous to the Community by dredge or dragline, store fill within the Community and remove and/or sell excess fill; and grow or store plants and trees within, or contiguous to, the Community and use and/or sell excess plants and trees; and (vii) undertake all activities which, in the sole opinion of Declarant, are necessary for the development and sale of any lands and improvements comprising the Community, which may include all obligations as set forth in any applicable permits.

ARTICLE IX

USE OF PROPERTY

Section 1. Applicability. The Association and its Members shall be subject to those covenants and restrictions as set forth in the Grand Harbor Declaration as the same may be amended from time to time, and shall also be subject to the rules and regulations of the Grand Harbor Community Association as the same may be amended from time to time. The provisions of this Article shall be applicable to the Property (or that portion thereof as may hereinafter be specified) and the use thereof, but shall not be applicable to the Declarant or any of its designees, or any Lot, Unit or other property owned by Declarant, Declarant's Affiliates, or their designees.

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

Section 2. Land Use and Building Type. Except for normal construction activity, sale, and re-sale of a Unit, administrative offices of Declarant, each Unit is restricted to residential use as a residence by the Owner or permitted occupant thereof, its immediate family, guests, tenants and invitees and no commercial or business activity shall be conducted in any Unit within The Falls at Grand Harbor. Notwithstanding the foregoing, and subject to applicable statutes and ordinances, an Owner may maintain a home business office within a Unit for such Owner's personal use; provided, however, (i) business invitees, employees (who do not reside in the Unit), customers, and clients shall not be permitted to meet with Owners in Units unless the Board provides otherwise in the rules and regulations, (ii) the business is not apparent or detectable by sight, sound, or smell from outside of a Unit, (iii) the business is consistent with

The Falls at Grand Harbor's residential character and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of others, as the Board determines in its discretion. No Owner may actively engage in any solicitations for commercial purposes within the Community. No solicitors of a commercial nature shall be allowed within the Community, without the prior written consent of the Association. No garage sales are permitted except as permitted by the Association. Prior to the Community Completion Date, the Association shall not permit any garage sales without the prior written consent of Declarant. No day care center, group babysitting service, or day care facility may be operated out of a Unit. Leasing a Unit for residential purposes shall not be considered a business within the meaning of this Section. However, without limiting the generality of this Section, temporary uses by Declarant and its designees for model homes, sales displays, parking lots, sales offices and other offices, or any one or any combination of such uses, shall be permitted until permanent cessation of such uses takes place. No changes may be made in buildings erected or approved by the Declarant (except if such changes are made by the Declarant) without the written consent of Declarant, the ARB, as appropriate and as provided herein.

Section 3. Easements. Easements for installation and maintenance of utilities and Community Systems are reserved as shown on the recorded plats covering all or portions of the Property and as provided herein. The area of each Lot covered by an easement and all improvements in the area shall be maintained continuously by the Owner of the Lot, except as provided herein to the contrary and except for installations for which a public authority or utility company is responsible. The appropriate water and sewer authority, electric utility company, telephone company, the Association, Declarant, Declarant's Affiliates, and their successors and assigns, shall have a perpetual easement for the installation and maintenance, all underground, unless the ARB approves otherwise in writing, of water lines, sanitary sewers, storm drains, and electric, telephone and Community Systems lines, cables and conduits, under and through the utility easements as shown on the plats or as may be created by separate written document recorded among the Public Records of Indian River County, Florida.

Section 4. Nuisances. No immoral, noxious, offensive or unlawful activity shall be carried on within the Property nor shall anything be done therein or thereon which may be or become an annoyance to the Property or other Owners. No nuisance shall be permitted within the Property nor shall any use or practice be permitted which is or becomes a source of annoyance to the Members or which interferes with the peaceful use and possession thereof by the Members. Additionally, nothing shall be done or maintained on any Lot or Unit, or upon any Common Areas or upon any other portion of the Property which will increase the rate of insurance on any Unit, the Common Areas or other portions of the Property, or result in the cancellation thereof. Nothing shall be done or maintained in any Lot or Unit, upon Common Areas, or upon any other portion of the Property which will be in violation of any law, ordinance, statute, regulation, or rule of any governmental authority having jurisdiction over the Property or portion thereof or in violation of any provision of this Declaration, the Articles or Bylaws as they may be amended from time to time or in violation of any rules and regulations which may be promulgated by the Board of Directors of the Association from time to time, as elsewhere provided herein. No waste shall be committed upon any Lot, in any Unit, the Common Areas or any other portion of the Property.

Notwithstanding the foregoing, each Owner hereby acknowledges that all activities undertaken by Declarant, Declarant's Affiliates, Club Owner, their lessees, licensees

and designees including, but not limited to the ongoing maintenance activities by the Club Owner and Association as more particularly described in **Article XIII** of this Declaration, shall be deemed as not constituting a nuisance and such activities and the parties performing them shall be specifically exempted from this provision.

Section 5. Temporary Structures. No structure of a temporary character, or trailer, mobile home or recreational vehicle, shall be permitted on any Lots within the Property at any time or used at any time as a residence, either temporarily or permanently, except by the Declarant, Declarant's Affiliates, or any designee of Declarant so long as Declarant, Declarant's Affiliates, or their designee owns one Lot. No gas tank, gas container or gas cylinder shall be permitted to be placed on or about the outside of any Unit or on or about any ancillary building, however, underground propane tanks shall be permitted with prior written approval of the ARB. Notwithstanding anything to the contrary in the foregoing, temporary structures may be permitted on Lots subject to the written approval of the Declarant and the Association. Further, this paragraph shall not apply to a temporary construction trailer maintained on a Lot during construction of a building so long as such construction trailer satisfies all applicable governmental laws, codes, ordinances and regulations.

Section 6. Playgrounds and Recreational Equipment. No playgrounds, swing sets, jungle gyms, and/or trampolines shall be maintained or permitted on any portion of the Property, without express written permission of the ARB. No basketball hoops, bocce, shuffle board or any type of net ball courts or any other permanent recreational sports equipment or structure shall be maintained or permitted on any portion of the Property, without express written permission of the ARB. No tree forts or swings attached to trees are permitted.

Section 7. Signs and Flags. Except as may be required by legal proceedings, no signs, flags, banners or advertising posters of any kind shall be maintained or permitted within any windows, on the exterior of any improvements located within the Property, or elsewhere on any portion of the Property, without the express written permission of the ARB. The ARB may establish reasonable restrictions regarding the display of the American flag, and may require that only standardized "For Sale" signs be used. The approval of any signs and posters, including, without limitation, name and address signs, shall be upon such conditions as may be from time to time determined by the ARB and may be arbitrarily withheld. Without limiting the generality of any other Article hereof, in the event that similar requirements of the County are more restrictive than those set forth herein, such more restrictive requirements shall supersede and control.

The foregoing restrictions on signs shall not apply to signs erected by Declarant or its designees. In addition, any subsequent modification, replacement or removal of such sign by Declarant, Declarant's Affiliates, or their designees shall not be subject to any approval by the Association, the ARB, other associations or any Owner. To the extent signs are originally permitted by Declarant or the ARB to be erected on the Property, such permission is subject to subsequent modification to permit additional or different signage.

Section 8. Oil and Mining Operation. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or within the Property, nor on dedicated areas, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or within the Property. No derrick or other structure

designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any portion of the land subject to this Declaration.

Section 9. Pets, Livestock and Poultry. No animals, livestock, birds or poultry of any kind shall be raised, bred or kept by any Owner upon any portion of the Property, provided that up to two (2) generally recognized house pets (not including tropical fish, which may be kept in reasonable numbers) may be kept in Units, subject to rules and regulations adopted by the Association through its Board of Directors, and further provided that such pet or pets are kept or maintained solely as domestic pets and not for any commercial purpose. No pet shall be kept within any screened enclosure. No pet shall be allowed to make an unreasonable amount of noise or to become a nuisance. No structure for the care, housing or confinement of any pet shall be constructed or maintained on any part of the Common Areas. Pets shall be under leash and the control of a responsible person at all times when walked or exercised in any portion of the Community, and no pet shall be permitted to leave its excrement on any portion of the Community, and the Owner of such pet shall immediately remove the same. Upon the written request of an Owner, the Board of Directors may conclusively determine, in its sole and absolute discretion, whether, for purposes of this Section 8, a particular pet is a generally recognized house pet or such pet is a nuisance, and the Board shall have the right to require the Owner of a particular pet to remove such pet from the Property if such pet is found to be a nuisance or to be in violation of these restrictions.

Section 10. Visibility at Intersections. No Owner, its guests, lessees, and invitees may cause or permit obstructions to visibility at street intersections or Common Area intersections.

Section 11. Boats, Trailers, Campers and Commercial Trucks. No commercial boats, trailers, campers and commercial trucks shall be parked or stored on Lots or within any Unit, and the same shall not be parked on or within the Common Areas.

No vans, except passenger vans having installed side windows and having full permanent seating capacity for at least five (5) passengers, excluding the driver, shall be placed or parked upon any Owner's Lot or otherwise on the Property. Passenger vans as defined herein, may only be kept, stored or parked within an enclosed garage. No trailers or habitable motor vehicles of any nature, skateboards, trucks or "pick-ups" or vehicles having printing or advertising on exterior surfaces or visible from the exterior shall be kept, stored, or parked on any part of the Property. Service vehicles not owned or operated by Owners, their families, lessees or guests that are intended to provide service to Lots, Units or Improvements, may be temporarily parked on the Property during daylight hours. No vehicles, including service vehicles, shall be permitted to park on streets overnight or between the hours of 12:01 a.m. and 7:00 a.m.

Subject to applicable laws and ordinances, any vehicle parked in violation of these or other restrictions contained herein or in the rules and regulations now or hereafter adopted may be towed away by or at the request of the Association at the sole expense of the owner of such vehicle if such vehicle remains in violation for a period of 24 hours from the time a notice of violation is placed on the vehicle or, if such vehicle is causing an obstruction or safety hazard on the Common Areas, in such lesser time period as the Association, in its sole discretion, determines. The Association shall not be liable to the vehicle's owner or any Owner for trespass,

conversion, property damage, or otherwise, nor guilty of any criminal act, by reason of such towing and once the notice is posted, neither its removal, nor failure of the owner to receive it for any other reason, shall be grounds for relief of any kind. For purposes of this paragraph, "vehicle" shall also mean vans, campers, mobile homes and trailers. An affidavit of the person posting the aforesaid notice stating that it was properly posted shall be conclusive evidence of proper posting.

In addition to the foregoing, the Association may require that vehicles of all or certain types of Owners bear appropriate decals and may charge a reasonable fee for such decals.

Section 12. Garbage and Trash Disposal. No garbage, refuse, trash or rubbish shall be deposited except as permitted by the Association. The requirements from time to time of the applicable governmental authority, trash collection company or the Association (which may, but shall not be required to provide solid waste removal services) for disposal or collection of waste shall be complied with by Owners and their guests or invitees. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. All solid waste shall be placed in containers which shall comply with the standards adopted by the Association (or the ARB) for such containers. The ARB in its sole discretion may designate a standard style and type for containers. Garbage and trash to be removed must be placed at curbside or other designated location no earlier than 6:00 p.m. the evening before collection and such containers must be removed from the designated pickup location as soon after the pickup as is practicable, but in no event by later than 6:00 p.m. on the day of collection.

Section 13. Laundry. Subject to the provisions of Section 163.04 of the Florida Statutes, to the extent applicable, no rugs, mops, clothing or laundry of any kind, or any other similar type article, shall be shaken, hung or exposed on railings, fences, hedges, walls or otherwise so as to be visible outside the Unit. Clotheslines must not be visible from outside the Lot.

Section 14. Waterfront Property. As to all portions of the Property which have a boundary contiguous to any river, harbor, channel, lake, estuary, drainage area, pond, marsh or other body of water, the following additional restrictions and requirements shall be applicable:

A. No person shall be permitted to use any river, harbor, channel, lake, estuary, drainage area, pond, marsh or other bodies of water within the Property for any purpose whatsoever, including, but not limited to fishing, playing, swimming, wading, or boating except with the prior written approval of the Board of Directors;

B. No decking, pedestrian walkways, boathouse, dock, wharf, raft, boat ramp, boat lift or other structure of any kind shall be erected, placed, altered or maintained on or adjacent to the shores of the lake, drainage area, pond or other body of water, or any portion of the Property, unless erected or approved in writing by the Declarant, or its designees subject to any and all governmental approvals and permits that may be required;

C. No boat, boat trailer or vehicular parking or use of river, harbor or lake slope or shore areas shall be permitted; and

D. No solid or liquid waste, litter or other materials or debris of any kind may be discharged into/onto or thrown into/onto any lake, drainage area, pond, marsh or other body of water or the banks thereof.

THE ASSOCIATION, DECLARANT AND DECLARANT'S AFFILIATES SHALL NOT BE RESPONSIBLE FOR ANY LOSS, DAMAGE, OR INJURY TO ANY PERSON OR PROPERTY ARISING OUT OF THE AUTHORIZED OR UNAUTHORIZED USE OF ANY RIVER, HARBOR, CHANNEL, LAKE, ESTUARY, POND, DRAINAGE AREA, MARSH OR OTHER BODIES OF WATER WITHIN THE PROPERTY BY ANY OWNER OR OCCUPANT OR THEIR GUESTS, INVITEES OR LICENSEES.

In order to provide for uniform water and water body vegetation control, no Owner shall undertake the performance of same without the Association's prior written approval.

Section 15. Unit Air Conditioners and Reflective Materials. No air conditioning units may be mounted through windows or walls. No building shall have any aluminum foil placed in any window or glass door or any reflective substance or other materials (except standard window treatments) placed on any glass, except such as may be approved by the ARB or its equivalent for energy conservation purposes.

Section 16. Exterior Antennas, etc. No exterior antennas, satellite dishes or similar equipment shall be permitted on any Lot or Improvement thereon, unless totally enclosed within a Unit or screened from view in a manner acceptable to the ARB.

Section 17. Renewable Resource Devices. Nothing in this Declaration shall be deemed to prohibit the installation of energy devices based on renewable resources (e.g., solar collector panels); provided, however, that same shall be installed only in accordance with the standards adopted from time to time by the ARB. Such standards shall be reasonably calculated to maintain the aesthetic integrity of the Property.

Section 18. Trees, Shrubs and Artificial Vegetation. No tree or shrub may be cut down, destroyed or removed from a Lot, Unit, Common Area or common element without the prior, express written consent of the ARB. No artificial grass, plants or other artificial vegetation, or statues, sculpture, or sculptural landscape decor, shall be placed or maintained upon the exterior portion of any Lot or Unit without the aforesaid ARB consent. In the event any tree, shrub or any other vegetation is destroyed by winds, fire, frost, freeze or other natural or artificial action and such tree, shrub or other vegetation is located exterior to the Unit and not within any walled patio, courtyard or lanai area if a Unit, the Association shall be responsible to replace the same with vegetation of similar type and kind and the cost therefor shall be a General Expense.

Section 19. Irrigation.

A. Irrigation from lakes and other water bodies within the Property or by wells shall be permitted only upon the written approval of the ARB and any governmental agency having jurisdiction thereof. No individual water supply system or individual sewage disposal system shall be installed, maintained or used on any Lot unless approved in writing by the ARB, all such approvals shall be in the sole discretion of said ARB and otherwise in accordance with **Article XI** of this Declaration. No irrigation device shall be visible above or

from the surface of the applicable water body. Any party using irrigation shall be financially and otherwise responsible (and may be individually assessed) for the negative impact on water quality, water level or vegetation control caused by such irrigation use, and for repair or replacement of any discolored surfaces with which water comes into contact. If required by the Association or ARB the applicable irrigation equipment shall contain iron or other filtration devices or components.

B. NEITHER DECLARANT NOR DECLARANT'S AFFILIATES MAKE ANY REPRESENTATIONS OR WARRANTIES TO OWNERS, THEIR LESSEES, GUESTS, INVITEES, AND LICENSEES, ORAL OR WRITTEN, IMPLIED OR EXPRESS, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, IN CONNECTION WITH THE CONTINUED (OR FUTURE) AVAILABILITY, QUALITY, OPERATION, FAILURE OF OPERATION, CESSATION, MAINTENANCE AND ADMINISTRATION OF ANY IRRIGATION SYSTEMS LOCATED WITHIN THE COMMUNITY.

C. Declarant has been advised that treated wastewater effluent ("Reused Water") may be available from the County for irrigation purposes in the Property. Declarant and Declarant's Affiliates may in their sole and absolute discretion, enter into agreements with the County ("Reused Water Agreement") to purchase Reused Water from the County for use in the irrigation systems located within the Community. The cost and expense for the purchase and use of such water under the Reused Water Agreement, if entered into, shall be a General Expense of the Association. In the event that the Reused Water Agreement is entered into, it shall contain a representation to the Declarant by the County that their Reused Water shall meet applicable governmental treatment standards. Since the treatment, supply and delivery of the Reused Water is within the exclusive responsibility and control of the County, neither Declarant or Declarant's Affiliates shall be liable or responsible in any manner with respect to the supply and use of Reused Water in the irrigation system, and Owners hereby agree to hold Declarant and Declarant's Affiliates harmless in connection with the supply and use of Reused Water in the Community.

Section 20. Exterior Lighting and Skylights. All exterior lighting and skylights shall be subject to prior approval by the ARB.

Section 21. Fences and Walls. The composition, location, color, design, structure and height of any fence or wall to be constructed on any Lot is subject to the written approval of the ARB. The ARB shall, among other things, require that the composition of any fence or wall be consistent with the material used in the surrounding buildings and other fences, if any.

Section 22. Mailboxes. No mailbox, newspaper box or rack or other receptacle of any kind for use in the delivery of mail, newspapers, magazines or similar material shall be erected on any Lot without the approval of the ARB as to style, size, color, installation and location. The ARB, in its sole discretion, may designate a standard style and type of mailbox. If and when the United States Postal Service or the newspaper or newspapers involved shall indicate a willingness to make delivery to wall receptacles attached to Units, each Owner, on the request of the ARB, shall replace the boxes or receptacles previously employed for such purpose or purposes with wall receptacles attached to dwellings.

Section 23. Utility Connections. Permanent building connections for all utilities installed after the date hereof, including, but not limited to, water, sewer, gas, electricity, telephone, cable and television, shall be run underground from the proper connecting points to the building structure in such a manner to be acceptable to the governing utility authority. The foregoing shall not apply, however, to transmission lines, transformers and other equipment installed by public utility companies or as part of the Community Systems.

Section 24. Construction Scheduling. No outdoor construction or development activity of any kind will be permitted within the Property on Sundays or legal holidays without the express prior written consent of the Association or the ARB. The ARB may, in its sole discretion establish hours within which construction may be performed. The foregoing restriction shall not apply to any construction or development activity by Declarant, Declarant's Affiliates, or their respective designees.

Section 25. Off-Street Motor Vehicles. No motorized or battery powered vehicles, including golf carts, may be operated on or off of paved roadways and drives except as specifically approved in writing by the Association. "All Terrain Vehicles" ("ATV's") are prohibited from being kept, used or driven on any portion of the Property. Off-Street Motor Vehicles operated by the Association, Declarant, Declarant's Affiliates, Club Owner, or their respective contractors, subcontractors or designees, are exempted from this Section. All motorized vehicles operated on the Property, whether on or off paved roadways and drives, must be operated by a driver with a current valid driver's license and such driver must have comprehensive liability insurance covering such vehicle in an amount to be determined from time to time by the Association. The Association may request the owner of the vehicle to provide proof of such liability insurance in a form reasonably satisfactory to the Association.

Section 26. Rental and Leasing. The Board of Directors of the Association shall have the right, but not the obligation, to adopt rules and regulations governing the rental or leasing of Lots within the Property including, without limitation, establishing minimum lengths for the terms of rentals or leases and limits upon the frequency of rentals or leases. The rules and regulations governing rental or leases may vary between specific residential areas or neighborhoods of the Property and/or on the basis of building types (villa, condominium, etc.) as the Board of Directors of the Association, in its discretion, deems appropriate. Such rules and regulations need not be approved by the Members of the Association nor be recorded.

Section 27. Bicycle Storage. Bicycles and similar devices shall be stored only within Units. In the event bicycles or similar devices are left on the Common Areas, they may be impounded by the Association. Such an administrative fee shall be an Individual Assessment enforceable pursuant to the procedures set forth in **Article X** of this Declaration. The Declarant and the Association shall have the right but not the obligation, to impound and store bicycles or similar devices and, after sixty (60) days of storage, dispose of same. Declarant, Declarant's Affiliates, the Association, their respective employees, officers, directors and designees shall have no liability for damage to or loss of bicycles while impounded or in the event of disposal of bicycles or similar devices.

Section 28. Auction Prohibition. No Lot, Unit, Improvements thereon or any interest therein shall be sold, marketed or conveyed by auction, nor shall auctions of real or personal property or interests in real or personal property be conducted within the Property,

unless conducted by Declarant or Declarant's Affiliates and their successors and assigns. Garage sales or other similar sales are prohibited from being conducted on any Lot, Unit or Common Areas.

Section 29. Garages. Garages shall only be used for the storage of automobiles and other uses authorized herein and shall not be permanently enclosed or converted to other uses. All garages shall be equipped with fully operational automatic garage door openers activated by a remote control garage door opener and all garage doors must be closed, except when vehicles are entering or exiting from the garage. Each Owner shall be responsible for maintaining his own garage door opener in good working order at all times at the Owner's sole cost and expense.

Section 30. Noise. No Owner shall knowingly or willfully make, create or allow to be made or created by his guests, lessees or invitees, any unnecessary, excessive or offensive noise or disturbance which destroys or interferes with the peace, quiet, and/or comfort of the Owners or other residents of the Property.

Section 31. Hazardous Waste. No flammable, toxic or hazardous substance of any type may be stored or kept on any Lot or Unit or discharged therefrom by an Owner in violation of any law, rule or regulation. Each Owner hereby indemnifies and holds harmless the Declarant, Declarant's Affiliates, their partners, officers, directors and employees, and the Association, its Officers, Directors, employees and agents from and against any and all claims, damages or losses of any kind that may be imposed upon or asserted against them arising out of or from any hazardous substance kept, stored or used upon any Lot or Unit. This indemnification shall survive the sale by an Owner of his Lot or Unit.

Section 32. Hunting. Hunting by firearm, bow and arrow, or in any other manner shall be and is expressly prohibited on or within the Property or any portion thereof.

Section 33. Swimming Pools and Spas. Swimming pools, hot tubs and spas on a Lot shall not be permitted unless the plans, specifications, and location of same are first approved by the ARB. No swimming pools, hot tubs or spas shall be permitted within the rear yard of any courtyard home or within the rear yard of any Lot that is adjacent to the lake within the Community. Swimming pools, hot tubs and spas located in the side yard of courtyard homes may be approved.

Section 34. Screen enclosures. Screen enclosures on a Lot or modifications thereto shall not be permitted unless the screen enclosure plans, specifications, and location are first approved by the ARB. Screen enclosures shall be no larger than the envelope of the Unit and shall at all times be setback from the lake a minimum distance as determined by the ARB in its sole discretion.

Section 35. Building Restrictions. Each Lot in the Community is subject to applicable building codes including, without limitation, set back requirements. All buildings and other structures shall be constructed in compliance with any and all applicable state, county and municipal zoning and building restrictions and any applicable regulations and restrictions of applicable governmental agencies.

Section 36. Additional Use Restrictions. The Board of Directors of the Association may adopt such additional use restrictions, rules or regulations, applicable to all or any portion or portions of the Property and to waive or modify application of the foregoing use restrictions with respect to any Lot(s) or Unit(s), as the Board, in its sole discretion deems appropriate. A waiver or lack of enforcement of one or more restrictions shall not be construed as a waiver of all similar restrictions in future situations. The Association shall have full enforcement rights notwithstanding any prior waiver. Any additional restrictions need not be recorded among the Public Records of Indian River County, Florida.

ARTICLE X

COMPLIANCE AND ENFORCEMENT

Section 1. Compliance by Owners. Every Owner and his/its tenants, guests, invitees, officers, employees, contractors, subcontractors and agents shall comply with any and all rules and regulations adopted by the Board of Directors of the Association as contemplated herein as well as the covenants, conditions and restrictions of this Declaration, as they may be amended from time to time.

Section 2. Enforcement. Failure to comply with this Declaration and/or any of such rules or regulations shall be grounds for immediate action by the Association which may include, without limitation, an action to recover sums due for damages, injunctive relief or any combination thereof. The Association shall also have the right to suspend rights to use the Common Areas as specified herein.

Section 3. Fines. In addition to all other remedies, and to the maximum extent lawful, in the sole discretion of the Covenant Enforcement Committee (as hereinafter defined), of the Association, a fine or fines may be imposed upon an Owner for failure of an Owner to comply with their obligations under this Declaration or with any rule or regulation of the Association, provided the following procedures are adhered to:

A. Notice: The Association shall notify the Owner of the infraction or infractions. Included in the notice shall be the date and time of a meeting of a Covenant Enforcement Committee of at least three (3) members appointed by the Board who are not officers, directors, or employees of the Association or the spouse, partner, child, brother or sister of an officer, director or employee of the Association (the "Covenant Enforcement Committee") at which time the Owner shall present reasons why fines should not be imposed. At least fourteen (14) days written notice of such meeting shall be given;

B. Hearing: The non-compliance shall be presented to the Covenant Enforcement Committee after which the Covenant Enforcement Committee shall hear reasons why a fine should not be imposed. A written decision of the Covenant Enforcement Committee shall be mailed to the Owner by not later than ten (10) days after the Covenant Enforcement Committee's meeting. The Owner shall have a right to be represented by counsel and to cross-examine witnesses;

C. Amounts of Fines: The Board of Directors, shall from time to time prescribe the amounts of fines in their reasonable discretion and shall establish a schedule of fines for first non-compliance or violation; second non-compliance or violation; and third and

subsequent non-compliances or violations which schedule shall be part of the rules and regulations of the Association as the same may be amended by the Board of Directors from time to time;

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

E. Collection of Fines: Fines shall be treated as a personal obligation of the respective Owner subject to collection together with attorneys' (and paraprofessionals') fees and costs of collection;

F. Application of Fines: All monies received from fines shall be expended only for the improvement or beautification of Common Areas as directed by the Board of Directors; and

G. Non-exclusive Remedy: Fines as provided herein shall not be construed to be an exclusive remedy of the Association, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled.

ARTICLE XI

ARCHITECTURAL REVIEW; GENERAL POWERS

The following provisions of this Article shall govern all construction and Improvements within the Community and shall be applied not in lieu of but in addition to those architectural standards provided for and governing the Grand Harbor Community Association. Each Owner shall be required to obtain all approvals required under Article XI of the Grand Harbor Declaration. Further the following provisions of this Article are subject to those of the immediately succeeding Article hereof.

Section 1. Members of ARB. The Architectural Review Board of the Association, which is sometimes referred to in this Declaration as the "ARB", shall initially consist of three (3) Members. The initial Members of the ARB shall consist of three (3) persons designated by Declarant. The size of the ARB may be changed at any time to a maximum of nine (9) Members and a minimum of three (3) Members in the discretion of the Board of Directors. Members of the ARB need not be Members of the Association. Each of the initial Members designated by Declarant shall hold office until all Lots and Improvements planned for the Property have been constructed and conveyed (if appropriate), or sooner at the option of Declarant. Prior to the Community Completion Date, Declarant shall have the right to remove and replace the respective ARB Members appointed by it at any time and from time to time. After Turnover, each new Member of the ARB shall be appointed by the Board of Directors of the Association and shall hold office until such time as he has resigned or has been removed or his successor has been appointed, as provided herein. Members of the ARB may be removed at any time without cause, subject to the rights of the Declarant as aforesaid. The Declarant shall have the right, in its sole discretion, to appoint or hire professional consultants to the ARB. Such consultants may include, but not be limited to, architects, engineers, landscape engineers and other design professionals.

The members of the ARB may, at the discretion of the Board of Directors, be compensated for their services in which event such compensation shall be a General Expense of the Association. The ARB may, with the approval of the Board of Directors of the Association as to amounts, require the payment of a non-refundable filing fee as a condition to the consideration of any matter presented to it, such fees to be applied to the compensation of the ARB Members and other expenses of the ARB (including, without limitation, overhead, development review, enforcement and other General Expenses reasonably allocable to the ARB).

In addition to the powers and duties set forth hereinbelow, the ARB shall have the right and duty to enforce such development review, architectural control, maintenance and other requirements and restrictions imposed on any portion of the Property by Declarant (by way of specific deed restrictions or contract) as Declarant shall, in its sole discretion, if at all, elect to have it enforce (subject at all times to Declarant's right to modify or revoke such right and duty). Such election may be made by Declarant in the applicable deed restrictions or by way of an exclusive or non-exclusive assignment of Declarant's rights to enforce same. Further, Declarant may provide for specific criteria and procedures to be used by the ARB in such regard (subject to later modification), absent such provision the ARB shall proceed in the manner set forth in this Article.

Notwithstanding anything to the contrary contained herein, the ARB shall uphold all decisions, guidelines, rules and regulations, specifications and standards promulgated by the New Construction Committee or the Modifications Committee of the Grand Harbor Community Association.

Section 2. Review of Proposed Construction. Subject to other applicable Sections below, no building, fence, wall or other structure or improvement (including, but not limited to, landscaping or other improvements or changes thereto of any kind) shall be commenced, altered, removed, painted, erected or maintained on the Property nor shall any addition, removal, change or alteration (including paint or exterior finishing) visible from the exterior of any Unit be made, nor shall any awning, canopy or shutter be attached to or placed upon outside walls or roofs of buildings or other Improvements, until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to, and approved in writing by, the ARB.

The ARB shall approve proposals or plans and specifications submitted for its approval only if it deems that the construction, alteration, removal or addition contemplated thereby in the location(s) indicated will not be detrimental to the appearance of the Property as a whole, and that the appearance of any structure affected thereby will be in harmony with the surrounding structures and is otherwise desirable. If the proposed construction, alteration, removal or addition is to common elements of a condominium, said approval shall also be subject to the prior approval of the applicable condominium association.

The ARB may condition its approval of proposals and plans and specifications as it deems appropriate, and may require submission of additional plans and specifications or other information prior to approving or disapproving material submitted. The ARB may also issue rules or guidelines setting forth procedures for the submission of plans for approval. The ARB may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, floor plans, site plans, drainage plans, elevation drawings,

landscape and landscape irrigation plans and specifications, and descriptions or samples of exterior materials and colors. Until receipt by the ARB of all required plans and specifications, the ARB may postpone review of any plans submitted for approval. Upon such receipt, the ARB shall have thirty (30) days in which to accept or reject any proposed plans or request modifications to such plans and, if the ARB does not reject or request modifications to same within such period, said plans shall be deemed approved as submitted. Any decision of the ARB shall take precedence over any architectural review boards of another association, if any.

All changes and alterations of Owner's buildings and landscaping and other Improvements whether structural, color, style or otherwise, shall also be subject to all applicable permit requirements and to all applicable governmental laws, statutes, ordinances, rules, regulations, orders and decrees. ARB written approval of any changes and alterations must be obtained prior to application to any governmental authority.

The provisions of this Article shall apply not only to Lots and Units, but also to common areas or common elements of any other associations within the Property, if any.

All construction on the Property, with the exception of construction by Declarant, shall be subject to such rules, regulations, design and construction standards, and setback and building requirements as may be promulgated by the Board and/or ARB from time to time.

Section 3. Meetings of the ARB. The ARB shall meet from time to time as necessary to perform its duties hereunder. The ARB may from time to time, by resolution unanimously adopted in writing, designate an ARB representative (who may, but need not, be one of its Members) to take any action or perform any duties for and on behalf of the ARB, except the granting of variances as hereinbelow provided. In the absence of such designation, the vote of a majority of Members of the ARB shall constitute an act of the ARB. Notice of meetings of the ARB shall be provided in the same manner as Board of Director's meetings pursuant to the Bylaws of the Association.

Section 4. No Waiver of Future Approvals. The approval of the ARB of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the ARB, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters whatsoever subsequently or additionally submitted for approval or consent.

Section 5. Inspection of Work. Inspection of work and correction of defects therein shall proceed as follows:

A. Upon the completion of any work for which approved plans are required under this Article, the applicant for such approval (the "Applicant") shall give written notice of completion to the ARB;

B. Within fifteen (15) days thereafter, the ARB or its duly authorized representative may inspect such improvement. If the ARB finds that such work was not effected in substantial compliance with the approved plans, it shall notify the Applicant in writing of such noncompliance within such fifteen (15) day period, specifying the particulars of noncompliance, and shall require the Applicant to remedy the same;

C. If, upon the expiration of thirty (30) days from the date of such notification, the Applicant shall have failed to remedy such noncompliance, the ARB shall notify the Board in writing of such failure. The Board shall then determine whether there is a noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a noncompliance exists, the Applicant shall remedy or remove the same within a period of not more than thirty (30) days from the date of announcement of the Board ruling. If the Applicant does not comply with the Board ruling within such period, the Board, at its option, may authorize the improvement as it is, remove the non-complying improvement or remedy the noncompliance, or pursue any other remedies available to it under this Declaration and at law and in equity and the Applicant shall reimburse the Association, upon demand, for all expenses incurred in connection therewith, plus an administrative charge to be determined by the Association. If such expenses are not promptly repaid by the Applicant to the Association, the Board shall levy an Individual Assessment against such Applicant and his Lot or Unit for reimbursement;

D. If for any reason the ARB fails to notify the Applicant of any noncompliance within sixty (60) days after receipt of said written notice of completion from the Applicant, the improvement shall be deemed to have been made in accordance with said approved plans, unless such failure to notify is due to excusable neglect, or would create a hardship on other Owners as determined by the ARB; and

E. In addition to, and not in lieu of, any other remedies provided to the ARB in this Article, the ARB shall have the right to seek injunctive and other relief for the temporary and permanent suspension of activities in violation of the requirements of this Article. After proper notice to the party in violation and opportunity to cure, the ARB may, in its sole discretion file such lawsuits and other judicial and administrative proceedings seeking to enforce the remedies granted in this subsection and elsewhere stated in this Declaration.

Section 6. Non-Liability of ARB Members. Neither the ARB nor any Member thereof, nor its duly authorized representative, shall be liable to the Association, or to any Owner or any other person or entity for any loss, damage or injury arising out of or in any way connected with the performance or non-performance of the ARB's duties hereunder. The ARB shall review and approve or disapprove all plans submitted to it for any proposed improvement, alteration or addition solely on the basis of aesthetic considerations and the benefit or detriment which would result to the immediate vicinity and to the Property. The ARB shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials and/or some of the procedures set forth herein and, without limiting the generality of other applicable provisions hereof, may alter the procedures set forth herein as to any such applicant.

Section 7. Exceptions from ARB Control. Notwithstanding the foregoing Sections of this Article, the ARB shall have no jurisdiction over, and the requirements contained in this Article shall not apply to, the Declarant, Declarant's Affiliates, or any parties as may be designated by Declarant.

Section 8. Declarant Approvals. Notwithstanding the foregoing provisions or anything else to the contrary mentioned in this Declaration, any approval by the Declarant or Declarant's Affiliates concerning proposed construction, development, structures, improvements,

modifications or alterations, shall be deemed to satisfy the requirements of this Article and shall be given the full weight and authority of an approval of the ARB pursuant to this Article.

ARTICLE XII

ADMINISTRATION

Section 1. Preamble. In order to ensure the orderly development, operation and maintenance of the Property and the properties which may be added to the Property and/or nearby properties under the control of another association, this Article has been promulgated for the purpose of (1) giving the Association certain powers to effectuate such goal, (2) providing for intended (but not guaranteed) economies of scale and (3) establishing the framework of the mechanism through which the foregoing may be accomplished.

Section 2. Duties and Powers. The duties and powers of the Association shall be those set forth in the provisions of the laws of Florida relating to nonprofit corporations, this Declaration, the Bylaws and the Articles of Incorporation, together with those reasonably implied to effect the purposes of the Association; provided, however, that if there are conflicts or inconsistencies between the laws of Florida, the Grand Harbor Community Declaration, this Declaration, the Bylaws or the Articles of Incorporation, the provisions of the laws of Florida, the Grand Harbor Community Declaration, this Declaration, the Articles of Incorporation and the Bylaws, in that order, shall prevail, and each Owner of a Lot or Unit by acceptance of a deed or other conveyance therefor, covenants to vote in favor of such amendments as will remove such conflicts or inconsistencies. The Association may exercise any other right or privilege given to it expressly by this Declaration or by law, together with every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege. Notwithstanding the foregoing provisions of this Article or any other provision of this Declaration to the contrary, for so long as Declarant shall own any Lot or Unit, the Association shall not, without the consent of Declarant, borrow money or pledge, mortgage or hypothecate all or any portion of the Common Areas.

Section 3. Personal Property and Real Property. The Association, through action of its Board of Directors, may acquire and hold tangible and intangible personal property and real property and may dispose of the same by sale or otherwise. All funds received and title to all properties acquired by the Association and the proceeds thereof, after deducting therefrom the costs incurred by the Association in acquiring or selling the same, shall be held by and for the benefit of the Association. The undivided interests of the Owners in the funds and assets of the Association cannot be individually assigned, hypothecated or transferred in any manner.

Section 4. Indemnification. The Association shall indemnify and hold harmless every officer or director of the Association and member of the ARB against any and all expenses, including court costs and reasonable attorneys' (and paraprofessionals') fees, reasonably incurred by or imposed upon any current or former officer or director of the Association and member of the ARB in connection with any action, suit or other proceeding (including settlement of any suit or proceeding if approved by the Board of Directors) to which he or she may be made a party by reason of being or having been an officer or director of the Association or member of the ARB. The officers or directors of the Association and members of

the ARB shall not be liable for any mistake of judgment, negligence, or otherwise, except for their own willful misconduct or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Owners or Members of the Association), and the Association shall indemnify and forever hold each such officer, director and member of the ARB free and harmless, against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director of the Association or member of the ARB, or former officer, director or member may be entitled. Such indemnification shall continue as to a person who has ceased to be a director, officer, member of the ARB, or their employee or agent, and shall inure to the benefit of the heirs and personal representatives of such a person. An adjudication of liability shall not affect the right to indemnification for those indemnified. The Association shall as a General Expense maintain adequate general liability and officers' and directors' liability insurance to fund this obligation.

Section 5. Agreements. Subject to the prior approval of Declarant for so long as Declarant owns a Lot or Unit, all agreements and determinations lawfully authorized by the Board of Directors shall be binding upon all Owners, their heirs, legal representatives, successors and assigns, and all others having an interest in the Property or the privilege of possession and enjoyment of any part of the Property; and in performing its responsibilities hereunder, the Association, through its Board of Directors, shall have the authority to delegate to persons of its choice such duties of the Association as may be determined by the Board of Directors. In furtherance of the foregoing, and not in limitation thereof, the Association may obtain and pay for the services of any person or entity to manage its affairs or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall deem necessary or desirable for the proper operation of the Property whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or with which it contracts. All costs and expenses incident to the employment of a manager shall be General Expenses. During the term of such management agreement, such manager may, if authorized by the Board of Directors, exercise all of the powers and shall be responsible for the performance of all the duties of the Association, excepting any of those powers or duties specifically and exclusively reserved to the directors, officers or Members of the Association by this Declaration or the Bylaws. Such manager may be an individual, corporation or other legal entity, as the Board of Directors shall determine, and may be bonded in such a manner as the Board of Directors may require, with the cost of acquiring any such bond to be a General Expense. In addition, the Association may pay for, and the Board of Directors may hire and contract for, such legal and accounting and other professional or consulting services as are necessary or desirable in connection with the operation of the Property or the enforcement of this Declaration, the Bylaws or the rules and regulations of the Association.

Section 6. Board of Directors. The Association shall be governed by a Board of Directors as provided for in the Articles and Bylaws of the Association. The Members of the Board of Directors shall be selected by Declarant until the Turnover. Thereafter, Director shall be selected in the manner set forth in the provisions of this Declaration and pursuant to the Articles and Bylaws of the Association.

Section 7. Development Review, Maintenance and Use Restrictions. The Association (through the ARB) shall exercise the architectural control/development review

functions reserved herein, subject to the development review and approval rights of the Declarant.

The Association and any other association shall have the power to enforce their own respective use restrictions, provided that in the event of conflict, the more stringent restrictions shall control and provided further that if any other association fails to enforce its respective restrictions, the Association shall have the absolute right, but not the obligation, to do so and to allocate the cost thereof to the applicable association which shall promptly pay for same or reimburse the Association.

Section 8. Delegation of Other Duties. The Association shall have the right, but not the obligation, to delegate to other association(s) on an exclusive or non-exclusive basis, such duties as the Association shall deem appropriate. Such delegations shall be made by written notice to the other association, which shall be effective no earlier than thirty (30) days from the date such notice is given. Any delegation made pursuant hereto may be modified or revoked by the Association at any time.

Section 9. Acceptance of Delegated Duties. Whenever the Association delegates any duty to another association pursuant hereto, the other association shall be deemed to have automatically accepted same and to have agreed to indemnify, defend and hold harmless the Association for all liabilities, losses, damages and expenses (including attorneys, fees actually incurred and court costs, through all appellate levels) arising from or connected with that association's performance, non-performance or negligent performance thereof.

Section 10. Certain Reserved Functions of the Association. In this Declaration, or similar instrument for any other association, the following powers, rights and duties (and all remedies necessary and convenient to exercise or enforce same) are hereby reserved to the Association and/or ARB, as appropriate, whether or not so stated therein (unless subsequently waived or delegated in a written instrument expressly intended to have such effect):

A. All restrictions, requirements, duties and procedures as to maintenance of Units and Lots, restrictions, rules and regulations and development review as same apply to other associations, their common areas or common elements and activities within the Property, Owners and their Lots, Units and activities within the Property (particularly, but without limitation, as to activities within the Common Areas); and

B. Any and all provisions of this Declaration as to Owners and their Lots, Units and activities to the extent that another association is initially responsible therefor but has failed to perform such responsibility.

As used in this Section, the term Owner shall include any family member, guest, tenant, agent, invitee, licensee, contractor or subcontractor of an Owner. Any action taken by the Association or the ARB pursuant to this Section shall not alter, waive or impair the Association's or ARB's right to compel another association to take any action required of it in the same or different instances. Further, in the event that another association fails to take any action required of it hereunder, under its own declaration or pursuant to a delegation made pursuant to this Article, the Association shall have the additional, non-exclusive remedy of imposing a reasonable fine on such other association if such failure continues for more than fifteen (15) days after notice is given by the Association.

Section 11. Association Offices. The association does hereby reserve the right to locate an office or offices for the Association in a building or buildings located within the Property and at such place as may be designated by the Declarant from time to time until the Turnover Date. For purposes of this Section, the Association may construct, own or lease its office facilities and the Association shall be responsible for the financing of such construction, ownership or lease of its facilities. All costs associated with the construction, ownership, lease and maintenance of the Association's offices are General Expenses of the Association.

Section 12. Declarant Consent. For so long as Declarant or Declarant's Affiliates owns one Lot, Unit, or other real property in the Property, no Declaration may be recorded in the Public Records of Indian River County, Florida without the written consent and joinder of Declarant hereunder.

ARTICLE XIII

GRAND HARBOR CLUB

Section 1. Club Facilities. Declarant or other parties may from time to time provide recreational facilities, including, without limitation, Club Facilities (as defined in **Article I, Section 10** of this Declaration) within the Property which are separate from the Common Areas of the Association or any association.

Each Owner, his tenants, guests, lessees, invitees, licensees, successors and assigns, hereby recognizes that the Club Facilities are private and shall not be used by Owner unless said Owner is a Member of the Grand Harbor Golf and Beach Club. In no manner shall Membership in the Association, nor ownership or occupancy of a Lot or Unit confer any membership or right to use any Club Facilities upon an Owner, his tenant, guests, lessees, invitees or licensees.

The Club Facilities or other recreational facilities may be developed and provided at the discretion of the Declarant or another party. Whoever owns any of these Club Facilities at any particular time has the exclusive right to determine from time to time, in its sole discretion and without notice or approval of any change, how and by whom the Club Facilities shall be used, if at all. By way of example, but not limitation, such entities have the right to approve users and determine eligibility for use, to reserve use rights for future purchasers of the Property, to terminate any or all use rights, to change, eliminate or cease operation of any or all of the Club Facilities, to transfer any or all of the Club Facilities or the operation thereof to anyone and on any terms, to limit the availability of use privileges, and to require the payment of a purchase price, membership contribution, membership deposit, initiation fee, dues, transfer fee and other charges for use privileges. The rights provided in this paragraph to the Owner of the Club Facilities shall be assignable.

Ownership of any or all of the Property or membership in the Association does not give or confer any vested right or easement, prescriptive or otherwise, to use the Club Facilities, and does not grant any membership interest in the Club Facilities.

EACH OWNER ACKNOWLEDGES THAT IN THE EVENT THAT SUCH OWNER BECOMES A CLUB MEMBER THERE IS ASSOCIATED WITH SUCH CLUB MEMBERSHIP COSTS OF BECOMING A CLUB MEMBER WHICH INCLUDE CLUB INITIATION FEES, ANNUAL DUES AND OTHER RELATED FEES.

Section 2. No Membership Right. The ownership of a Lot or Unit does not confer upon the Owner any right to use the facilities or to become a member of any golf club or golf course which may be constructed in Grand Harbor Community. No Owner, nor any of his successors or assigns, has or will have (i) any right to join any of the private clubs within the Property or use any such facilities (including the Club Facilities) unless he is accepted for membership (which shall be in the sole and absolute discretion of the Club Owner), and has paid all current membership and other applicable fees; (ii) any right to a membership of the Grand Harbor Golf and Beach Club except at the sole discretion of the Partnership as said term is defined in the Plan for the Offering of Memberships in Grand Harbor Golf and Beach Club; and (iv) any right to bring or take any action to prevent or seek any remedy against the Declarant, or the Association, or any of their respective officers, directors, partners, agents, employees, successors or assigns, relative to the operation of or any act or omission directly or indirectly related to any clubs operating within the Property. Each Owner specifically waives and disclaims any interests in the foregoing clubs, golf courses and facilities other than any interest he may acquire as a Club member, in the event he applies for membership and has been accepted.

Section 3. Club Easement. All Owners of land or other real property within the Property, their tenants, guests, lessees, invitees, licensees, successors and assigns, hereby recognize the existence of Grand Harbor Golf and Beach Club being a private membership club containing certain recreational and other club facilities. By their acceptance of a deed of conveyance of Lots or Units within the Property or by acquiring title to a Lot or Unit by operation of law or otherwise, each Owner acknowledges that the Common Areas shall be and are subject to use by Club members, employees, administrative personnel, guests and invitees. No Owner or their tenants, lessees, guests, invitees, licensees or employees shall in any manner do anything to impair the use rights of Common Areas by Club members and their designees as more particularly described in this Article.

Section 4. Club and Association Activities. Each Owner acknowledges that there shall be ongoing activities by the Declarant, Declarant's Affiliates, Club Owner and the Association, respectively. Such activities may include, without limitation, maintenance activities, recreational activities, sporting tournaments and special events undertaken by the Declarant and Declarant's Affiliates, Club Owner and the Association, respectively. Such activities may at times result in certain levels of noise, annoyance or inconvenience to Owners and other residents within the Property and Community. Notwithstanding the existence of such noise, inconvenience or annoyance, each Owner acknowledges the need for such maintenance activities in order to maintain the Property, Community, Club Facilities and Common Areas, respectively, and to carry on the various functions of the respective entities. Each Owner, by acquiring title to a Lot or Unit within the Property, does hereby release and hold harmless Declarant, Declarant's Affiliates, Club Owner, the Association and their respective Officers, Directors, employees and contractors relative to all activities that may be conducted by them, respectively, on or related to the Property or Community. Each Owner hereby acknowledges

that the activities of the Declarant, Declarant's Affiliates, Club Owner and the Association, respectively, shall not constitute a nuisance and shall be specifically exempted from **Article IX, Section 4** of this Declaration.

ARTICLE XIV

DECLARANT CONTROL OF ASSOCIATION

Section 1. Declarant Control. Notwithstanding anything contained elsewhere in this Declaration to the contrary, Declarant shall have the right to appoint or remove any member or members of the Board of Directors and any officer or officers of the Association, without the necessity of a vote at an annual meeting, until the Turnover Date. For so long as Declarant retains control of the Association, Declarant shall have, in addition to such other rights it may have under this Declaration, the Articles, Bylaws and as otherwise provided by law, the following rights with respect to the Association:

A. The right to appoint all members of the Board of Directors of the Association and fill all vacancies on the Board;

B. The right to appoint all members of the Architectural Review Board and to fill all vacancies on such ARB;

C. The right to approve the appointment of all Officers of the Association.

Section 2. Transfer of Control. At the first Annual Meeting following the Turnover Date, Members other than the Declarant shall elect the members of the Board of Directors of the Association in the manner set forth in the Bylaws.

Section 3. Declarant Responsibility After Turnover. All Owners, their assigns, guests, tenants and invitees do hereby acknowledge and agree that on the Turnover Date in accordance with this Article, Declarant shall no longer have any responsibility, obligation, or liability of any kind whatsoever with respect to the Property, Community, the Association or the maintenance and administration thereof, or any other matter relating directly or indirectly thereto, it being intended that upon transfer of control in accordance with this Article, Declarant shall be relieved of all obligations, responsibilities and liabilities, including, but not limited to those existing under this Declaration, the Articles and Bylaws, as they may be amended from time to time. Notwithstanding the foregoing and anything else contained in this Declaration, after the Turnover Date, Declarant shall continue to retain those rights, reservations and easements existing in favor of Declarant as described in this Declaration, the Articles and Bylaws and in any other document or instrument granting, reserving or describing such Declarant rights, reservations and interests, unless and until neither Declarant nor Declarant's Affiliates no longer own any Lots within the Property or have expressly terminated such rights, reservations or easements by written instrument executed by Declarant.

Section 4. Board Actions. Each Owner hereby acknowledges and agrees that any action taken by the Board of Directors of the Association is an action by said Board and not of the Declarant, Declarant's Affiliates, its employees, Officers, Directors, affiliates designees or assigns, and that the Declarant shall not be responsible for any actions taken by the Board of

Directors of the Association, including, but not limited to, those actions of the Board, both prior and subsequent to the Turnover Date pursuant to this Article.

Section 5. Indemnification of Declarant. Subsequent to the Turnover Date, the Association covenants and agrees that it will indemnify, hold harmless and defend Declarant, Declarant's Affiliates and Declarant's designees, their respective officers, directors, employees and agents from and against any and all claims, suits, actions, causes of action and/or damages arising from any personal injury, loss of life and/or damage to property sustained on or about the Property or Community or other property serving the Association, or result arising out of the operation of the Association and any improvements on or upon the Property or Community, or resulting from or arising out of activities or operation of the Association, and against all costs, expenses, attorneys fees (including, but not limited to all investigative, trial and appellate levels and whether or not suit be instituted) expenses and liabilities incurred by Declarant, Declarant's Affiliates and designees, their respective officers, directors, employees and agents, arising from any such claim, the investigation thereof, or the defense of any action or proceedings brought thereon, and from and against any orders, judgments and/or decrees which may be entered thereon. The cost and expense of fulfilling this covenant of indemnification set forth in this Section shall be General Expense to the extent such matters are not covered by the Association's insurance coverages, provided that the amount of any assessment arising therefrom shall be in addition to, and not part of the Annual Assessment.

ARTICLE XV

TRANSFERS OF LOTS OR UNITS

In order to preserve the values and amenities of the Community, the following provisions shall be applicable to the Community:

A. Sales, Leases and Other Transfers.

Section 1. Transfers Subject to Right of Refusal. In order to maintain a community of congenial residents who are financially responsible and thus protect the value of the Property, no Owner, other than Declarant, to whom this Article does not apply, may transfer title or beneficial ownership of his Lot or Unit, or any interest therein, by sale, lease or any other means whatsoever, without the prior written approval of the Association as provided hereinafter.

Section 2. Entity Ownership. If the purchaser or lessee of a Unit is a corporation, trust or entity other than an individual person, the person who executes the lease or contract to purchase shall be the primary occupant of the Unit unless the purchaser or lessee designates otherwise. All other occupants shall be considered as either guests or lessees, as may be appropriate, who shall be subject to all use and occupancy restrictions provided in the Declaration, and in the rules and regulations of all governing associations. All such approvals shall be made on forms supplied by the Association.

Section 3. Notice to the Association. Any Owner intending to make a bona fide sale, transfer or lease of his Lot or Unit, as the case may be, or any interest therein, (except a mortgage) shall give the Association notice of such intention by filing with the Association a written Resale Notice or Notice of Lease, as applicable, on the form prescribed by the Association. Such Notice shall contain the name and address of the intended Purchaser or

Lessee, the proposed purchase price or rent, the terms of the transaction, and such other information concerning the intended Purchaser or Lessee as the Association may reasonably require, together with an executed copy of the proposed Contract, Lease or other transfer instrument.

A reasonable administrative fee, as determined by the Association, may be charged by the Association to the Owner, for the purpose of defraying the cost associated with processing of the application for approval, reflecting the proposed transfer in the books and records of the Association and other matters associated with any Board approved transfer.

If the required Notice to the Association shall not be given, then at any time after receiving the knowledge of the transfer of ownership or possession of the Lot or Unit, the Association may, without notice, approve or disapprove of the transaction.

Section 4. Certificate of Approval. In the case of a sale, if the proposed transfer is approved by the Association, such approval shall be evidenced by a Certificate of Approval, executed by the President, Vice President, Secretary or Executive Director of the Association, which Certificate shall be recorded in the Public Records of the County, at the expense of the Seller of the Lot or Unit.

Section 5. Right of Refusal. Declarant and the Association shall have the Right of Refusal to purchase, as the case may be, any property proposed to be transferred by an Owner, by sale or lease in accordance with the following procedure:

A. Sale. If the proposed transfer is a sale, Declarant and the Association shall have a total of ten (10) days from the date of the Association's receipt of the Resale Notice within which to exercise their Rights of Refusal to purchase. Upon the Association's receipt of the Resale Notice, it shall immediately inform Declarant of the proposed sale and Declarant shall have the Right of First Refusal. If Declarant does not exercise said Right of First Refusal, or expressly waives same, the Association shall thereupon have the right to exercise the Right of Second Refusal to purchase. The price to be paid to Owner shall be the bona fide price stated in the Contract to Sell, and a judgment of specific performance of the sale may be entered in a Court of competent jurisdiction. If a question arises as to whether or not the sale price is bona fide, the question shall be resolved by having the price determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the Arbitrators shall be two (2) MAI appraisers, appointed by the American Arbitration Association, who shall base their determination upon the average of their appraisals of the Lot or Unit. The sale and purchase shall be closed within sixty (60) days after receipt of the Sales Contract, or within thirty (30) days after the determination of the sale price by Arbitration, whichever date is later.

B. Lease. If the proposed transfer is a lease, the Association shall have ten (10) days from the date of receipt of the Notice of Lease within which to exercise their Rights of Refusal to lease. Upon the Association's receipt of the Notice of Lease, it shall immediately inform Declarant of the proposed lease and the Declarant shall have the Right of First Refusal. If Declarant does not exercise said Right of First Refusal, or expressly waive same, the Association shall thereupon have the right to exercise the Right of Second Refusal to lease. The rent to be paid by the Declarant or the Association, as the case may be, shall be the same as set forth in the

proposed lease; provided, however, that in the event a question arises as to whether or not the rental is bona fide, the question shall be resolved through arbitration, as set forth above.

Section 6. Implied Approval. In the event that either Declarant or the Association fails to exercise their respective Rights of Refusal within ten (10) days from the date of receipt of notice, then such transaction shall be deemed to have the approval of Declarant and the Association, respectively. Notwithstanding the foregoing provision, all approvals must be indicated by a Certificate of Approval as hereinbefore provided.

Section 7. Exceptions. The foregoing provisions pertaining to the transfer of Property shall not apply to the following:

A. A transfer to, or purchase by an Institutional Mortgagee, which acquires title as a result of owning a mortgage upon a Lot or Unit, and this shall be so whether title is acquired by Deed or other conveyance from the Mortgagor, or through foreclosure proceedings; nor shall such provisions apply to a transfer, sale or lease by an Institutional Mortgagee that so acquires its title. Neither shall such provisions require the approval of a purchaser who acquires title at a duly advertised public sale with open bidding provided by law, such as, but not limited to, execution sale, foreclosure sale, judicial sale, or tax sale.

B. A transfer from a Trustee to a Successor Trustee.

C. A transfer by devise or inheritance.

D. A transfer by operation of law.

E. The sale, lease or sub-lease of any Lot or Unit or other property to the Declarant or Declarant's Affiliates, or the sale, lease, sub-lease or other transfer of any Lot, Unit or other property by the Declarant or Declarant's Affiliates.

Section 8. Payment By the Association. All funds expended by the Association for the repurchase or lease of a Lot or Unit pursuant to this Article, shall be paid from funds collected by the Association from assessments against the Owners. All proceeds from the purchased property shall be returned to the general reserves of the Association.

Section 9. Unauthorized Transaction. Any sale, lease, ownership or other transfer not authorized pursuant to the terms of this Article, shall be void unless subsequently approved by the Association.

ARTICLE XVI

INSURANCE AND CONDEMNATION

Section 1. Insurance Coverages. The Association shall purchase and maintain a policy of comprehensive general public liability insurance naming the Association and Declarant as insureds. Coverage shall be in an amount to be determined from time to time by the Board of Directors, in its sole discretion but, in no event be less than Five Million Dollars (\$5,000,000.00) for a combined single limit coverage. Coverage shall include liability of the Association and Declarant for bodily injury, death and property damage. Any such policy will

provide that it cannot be canceled or substantially modified without at least thirty (30) days prior written notice to the Association and Declarant. Each Owner is responsible for purchasing and maintaining a policy of comprehensive general public liability insurance providing coverage for his Lot or Unit.

Section 2. Waiver of Subrogation. As to each policy of insurance maintained by the Association which will not be voided or impaired thereby, the Association hereby waives and releases all claims against the Board, the Owners, the Declarant and the officers, directors, agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by said persons, but only to the extent that insurance proceeds are received as compensation for such loss.

Section 3. Other Insurance Coverages. The Association shall maintain such other insurance coverages, including, but not limited to, a policy of insurance or fidelity bond naming the Association as the insured or as obligee to protect the Association against the wrongful acts or omissions of any officer, director, trustee, agent or employee of the Association and all of the persons who handle or are responsible for the handling of funds of, or funds administered by the Association in such amounts and upon such terms as the Board of Directors deems necessary. The Association may also obtain Workmen's Compensation Insurance and other liability insurance as it deems desirable insuring each Owner and the Association and Board from liability in connection with the Common Areas. The premiums for all insurance coverages obtained by the Association shall be and are hereby declared General Expenses and included in the Annual Assessments and Special Assessments made against Owners.

Section 4. Director and Officers Liability Coverage. The Association through its Board of Directors shall use reasonable efforts to obtain Directors and Officers liability insurance in such amounts of coverage as the Board of Directors determines, in its sole discretion, insuring each Director and Officer of the Association from any acts or omissions, which may occur in the performance of his duties as a Director or Officer of the Association. The cost of such Directors and Officers liability insurance shall be a General Expense of the Association.

Section 5. Declarant Named As Insured. Whenever the Association is required to purchase and maintain a policy of insurance or bond which shall, according to the terms of this Article, name Declarant as an insured, such obligation to name the Declarant as an insured shall cease upon Declarant's and Declarant's Affiliate's conveyance of title to the last Lot or Unit in the Property owned by Declarant.

Section 6. Condemnation. In the event all or any part of the Common Areas are the subject of a taking by a governmental or quasi-governmental authority having the power of condemnation or eminent domain, the award for such taking shall be subject to the approval of the Board of Directors of the Association and such award shall be made payable to the Association as Trustee for all Owners to be disbursed in the following manner:

A. In the event the taking involves a portion of the Common Areas on which Improvements have been constructed, then the Association shall restore or replace such Improvements taken on the remaining land included in the Common Areas to the extent lands are available therefor. Such Improvements shall be in accordance with plans and specifications

approved by the Board of Directors of the Association. In the event a determination is made by the Board of Directors of the Association that such Improvements being taken shall not be replaced or restored elsewhere on the remaining Common Areas, such determination shall be subject to the approval of two-thirds (2/3) of the Voting Members;

B. If the taking does not involve any Improvements on the Common Areas or if a determination has been made not to repair or restore Improvements on land being taken, or in the event there is a balance existing after the payment of costs of restoration or replacement is completed, then such net award or net funds shall be disbursed to the Association to be used for such purposes as the Board of Directors of the Association shall determine;

C. Until such time as the Declarant transfers control of the Association, all awards for the taking of Common Areas or any portion thereof and agreements and settlements related thereto shall be subject to the approval of the Declarant, which approval shall be in Declarant's sole discretion.

Section 7. Insurance by Unit Owners and Destruction or Removal of Units.

A. Prior to taking title to a Unit, each Unit Owner shall, at his sole expense, obtain and shall thereafter keep in full force and effect casualty and property insurance policies for the Unit and all Improvements on the Lot ("Property Insurance"). Each Owner's Property Insurance must include an agreed-amount endorsement for no less than one hundred percent (100%) of the full replacement cost (new without deduction for depreciation) of the covered Unit, Improvements and property. Each Unit Owner shall provide written proof of this insurance by supplying a Certificate of Insurance to the Association within thirty (30) days after acquiring title to the Unit. Each Unit Owner shall thereafter annually provide the Association with proof of renewal of such insurance.

B. In the event a Unit is destroyed or removed by or for any cause, the Owner shall be obligated to repair, restore and rebuild the damage caused by such loss. Any such repair, restoration and rebuilding shall be undertaken immediately and completed within nine (9) months of the date of casualty. Should the Owner fail to undertake such repair, restoration or rebuilding as required herein, the Association shall have the right to do so and to levy an individual assessment against the Lot for reimbursement of any expenses so incurred. If replaced, such replacement Unit shall be of a size, type and quality substantially similar to the previous Unit.

ARTICLE XVII

GRAND HARBOR COMMUNITY ASSOCIATION

Section 1. Disclosure. Each Owner acknowledges that his ownership of property within the Community automatically causes such Owner to become a member of Grand Harbor Community Association which is governed by the Grand Harbor Declaration which has and will continue to be amended from time to time. Each Owner further acknowledges that Grand Harbor Community Association may be the owner of or otherwise responsible for the maintenance of certain roadways, pedestrian paths, perimeter areas, buffer areas, entry ways, guardhouses (if any) which may be located within the Community. By virtue of becoming a Member of the Association and Owner of property within the Community, each Owner also

becomes a member of Grand Harbor Community Association and thereby becomes responsible for the payment of certain assessments to Grand Harbor Community Association. The Association may, from time to time, be the collecting agent for those assessments payable by Owners to Grand Harbor Community Association. Further each Member of the Association by virtue of such membership shall be responsible for the performance of those obligations and shall abide by those covenants, regulations, rules and restrictions contained in the aforementioned Grand Harbor Declaration.

Section 2. Supremacy of Grand Harbor Declaration. In addition to all of the rights and obligations which have been conferred or imposed upon the Association pursuant to this Declaration, the Articles and Bylaws, the Association shall be entitled to exercise any of the rights conferred upon it and shall be subject to all of the obligations imposed upon it pursuant to the Grand Harbor Declaration and the Bylaws and Articles of Incorporation of Grand Harbor Community Association. The Association, its Board of Directors and all committees thereof shall be subject to all superior rights and powers which have been conferred upon Grand Harbor Community Association pursuant to its Declaration, Articles of Incorporation and Bylaws. The Association shall take no action in derogation of the rights of, or contrary to the interests of Grand Harbor Community Association.

Section 3. Grand Harbor Community Association Rules and Regulations. The Owners and occupants, their family, guests, invitees and lessees shall abide by each and every rule and regulation promulgated from time to time by the Grand Harbor Community Association. The Board of Directors of the Grand Harbor Community Association shall give an Owner or occupant in violation of the rules and regulations of the Grand Harbor Community Association written notice of such violation in accordance with the Grand Harbor Declaration. Should the Grand Harbor Community Association be required to seek enforcement of any provision of this Declaration or the rules and regulations and prevail in such action, then the offending Owner or occupant (for himself or for his family, guests, invitees, or lessees) shall be liable to the Grand Harbor Community Association for all costs incurred in the enforcement action, including reasonable attorneys' (and paraprofessionals') fees, whether incurred in trial or appellate proceedings or otherwise.

ARTICLE XVIII

ZERO LOT LINE; PARTY WALL

Section 1. General. Each wall built as part of the original construction of Lot or Unit, as applicable, and placed on the dividing line between such Lots or Units on which it is situated, if any, shall constitute a Party Wall, and each Owner of one of the Lots or Units, as applicable, shall own that portion of the wall which stands on that Owner's Lot or Unit, together with a cross-easement of support in the other portion. To the extent not inconsistent with the provisions of this Article, the general rules of laws regarding Party Walls and liability for property damage due to negligence or willful acts or omissions shall apply to all such Party Walls.

Section 2. Zero Lot Line Easements. If a Unit is constructed within three (3) feet of the side Lot line and/or within three (3) feet of the rear Lot line of any Lot, the following easements are hereby created as to such Units:

A. Subject to the other provisions of this Declaration, a three (3) foot wide non-exclusive easement is hereby created over, under, across and through the vacant and unimproved portion of each Lot along the side Lot line along which a Zero Lot Line Unit is constructed or to be constructed on the adjacent Lot, in favor of the Owner of the adjacent Lot and in favor of the Association, the purpose of which easement shall be for maintenance or repair of the Improvements constructed or to be constructed on or near the Zero Lot Line of the adjacent Lot Owner, if any. The Association and the Owner of an adjacent Lot shall have the right, at all reasonable times, and after prior notice to the Owner of a Lot, to enter upon the easement area of a Lot in order to perform work relating to the maintenance or repair of a Unit or related Improvement constructed on the adjacent Lot. Nothing shall be placed within the easement area which would block access to the easement area, except as to any Improvement constructed or landscaping installed by the Declarant, its successors or assigns, or replacements thereof or Improvements installed pursuant to Subsection D hereof and with the approval of the ARB. The easements provided for herein are appurtenant to and shall pass with the title to each Lot, subject to the provisions of this Declaration.

B. The Declarant hereby specifically creates and reserves unto itself, and its successors and assigns, a three foot (3') wide non-exclusive easement for roof overhangs, gutters, drainage and footings along the boundary of each Lot for the encroachment of and/or drainage from any overhanging roof and for any encroachment of footings relating to a wall on or near the boundary of any adjacent Lot.

C. The Declarant hereby specifically creates and reserves unto itself and its successors and assigns, a non-exclusive, perpetual easement for any encroachment on a Lot of a wall, planter or other Improvement, and for fences, gutters and downspouts. This easement shall be a continuous easement and shall cover similar future encroachments which may occur in connection with the repair, maintenance or replacement of the item encroaching on any Lot or Common Areas.

D. Each Lot shall enjoy and be subject to a perpetual limited right to have certain Improvements, including, but not limited to, trellises, barbecues, screen enclosures and decorative water fountains attached to the Unit on the Zero Lot Line side of the Lot, if any. The Owner of each Lot upon which Declarant has constructed a Zero Lot Line Unit, shall have the permanent right to install, replace and maintain certain Improvements including, but not limited to, trellises, barbecues, screen enclosures and decorative water fountains on the Zero Lot side of his Lot and to attach such item to the wall of the Unit on the boundary line of the adjacent Lot, if any, providing: (i) the same shall not damage or harm the Unit to which they are attached; (ii) the ARB has given its written approval for same; and (iii) further providing, the use, maintenance and/or operation of same shall not be or become a nuisance or source of annoyance to the Owner of the Unit to which such facility is attached, either by way of noise, vibration, heat or otherwise, and if any such use does become a nuisance or source of annoyance, it shall be modified in a way that is acceptable to the adjacent Owner or it shall be discontinued. Therefore, each Lot upon which a Zero Lot Line Unit is constructed shall enjoy and be subject to a perpetual limited right to attachment to the Unit constructed upon the adjacent Lot for such purposes. The type of improvement and method of attachment relating to this Section shall be subject to the prior written approval of the ARB; provided, however, no such approval shall be required for any Improvement installed by the Declarant, its affiliates, designees, successors or assigns or for any replacement or repair thereof made by the Owner of the adjoining Lot. The obligation to

maintain or repair any Improvement attached to a Unit extending on the adjacent Lot shall belong solely to the Owner of the Lot for whose benefit the Improvement was constructed (i.e., the Owner of the Lot whose Unit adjoins or has access to such Improvement and not the Owner of the Lot to which such Improvement is attached).

Section 3. Sharing of Repair and Maintenance. The costs of reasonable repair and maintenance of a Party Wall on two or more Lots or Units, as applicable, shall be shared by the Owners who make use of or are benefited by the wall, in proportion to the amount of use and benefit of such wall enjoyed by each, regardless of whether or not they make any actual use of same. In case of a wall or fence affecting two Lots or Units, each Owner shall be responsible for maintenance on that Owner's side of the fence or wall. In no instance shall the Association be responsible for repair or maintenance of all or any portion of any such Party Wall or fence unless such maintenance or repair responsibility is expressly assumed by the Association.

Section 4. Destruction by Fire or Other Casualty. If a Party Wall is destroyed or damaged by fire or other casualty, any Owner who has or could have used the wall may restore it, but no greater dimension of that Party Wall, or of any extension or restoration thereof, shall be placed upon the Lot or Unit of the other Owner who is not extending, constructing or restoring it than that existing prior to the fire or other casualty, unless the written consent of the latter is first obtained. No part of any addition to the dimensions of that Party Wall (or of any extension thereof already built) that may be made by either one of the Owners or Unit who have used it (or by those claiming under them respectively) shall be placed upon the Lot of the other Owner, unless the written consent of the latter is first obtained. If the other Owner thereafter makes use of the wall, he shall contribute to the cost of restoration thereof proportionate to his use, without prejudice, however, to the right of any such Owner to call for a larger contribution from the other Owner under any rule of law regarding liability for negligent or willful acts or omission.

Section 5. Negligent or Willful Acts of Omissions. Notwithstanding any other provision of this Article, any Owner who by his negligent or willful act or omission causes damage to all or any part of the Party Wall, including, without limitation, causing all or a part of the Party Wall not previously exposed to the elements to be exposed to the elements, shall bear the whole cost of repairing such damage, including the furnishing of necessary protection against such elements.

Section 6. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title to his Lot or Unit, as applicable. Upon conveyance or other transfer of title, the liability of the prior Owner shall cease.

Section 7. Association Rights and Indemnities. Notwithstanding anything to the contrary contained elsewhere in this Article or the Declaration, in no manner shall the Declarant or the Association have any responsibility for the maintenance and repair of a Party Wall or fence. Further, in the event an Owner proposed to materially alter a Party Wall or fence, such Owner shall be required to obtain the prior written consent of the Association and the Owner of the adjoining Lot or Unit with whom the Party Wall is shared and all such material alterations shall be subject to the architectural approvals as are required pursuant to this Declaration. Each Owner hereby agrees to indemnify, hold harmless and defend the Declarant

and Association and their respective officers, directors, employees and agents from any claim or liability directly or indirectly related to the sharing, repair, maintenance, destruction or act or omission relative to such Party Walls or fences. Such indemnity, hold harmless and agreement to defend shall include all attorneys' (and paraprofessionals') fees at trial and appellate levels and costs incurred relative to the defense of the Association and Declarant and their respective Officers, Directors, employees and agents in the event of any such claim for liability.

ARTICLE XIX

GENERAL PROVISIONS

Section 1. Duration. The covenants and restrictions of this Declaration shall be construed to be covenants running with the Property and with every part thereof and interest therein, and all of the provisions hereof and thereof shall be binding upon and inure to the benefit of and be enforceable by the Declarant, the Association, the Owner of any land subject to this Declaration and the ARB, and their respective legal representatives, heirs, successors and assigns, for a term of ninety nine (99) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by the then Owners of seventy-five percent (75%), and the mortgagees of one-hundred percent (100%), of the Lots and Units agreeing to revoke said covenants has been recorded and Declarant has given its prior written consent thereto. No such agreement to revoke shall be effective unless made and recorded three (3) years in advance of the effective date of such agreement and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken.

Section 2. Assignment. Any of the rights, powers, obligations and easements and estates reserved by, or granted to the Declarant or the Association may be assigned in whole or in part by Declarant or the Association, as the case may be. Any such assignment shall be in writing and recorded in the Public Records of the County. After such assignment, the assignee shall have the same rights and powers and be subject to the same obligations and duties as were the Declarant or the Association prior to the assignment, and the Declarant and Association shall be relieved and released of all obligations with respect to such rights, powers, obligations, easements or estates. Nothing stated in this Section or elsewhere in this Declaration shall preclude more than one person or entity serving as Declarant at any given time. Notwithstanding the foregoing, no assignment by the Association or Declarant shall be deemed to terminate those maintenance responsibilities for Common Areas which shall exist in the Association, or a successor association or some other perpetual maintenance entity. Such successor entity shall have the responsibility to perform those maintenance obligations and corresponding Assessment functions of its predecessor in interest.

Section 3. Notice. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when personally delivered or mailed, postpaid, to the last known address of the person who appears as the Voting Representative for that Lot or Unit on the records of the Association at the time of such mailing. Notwithstanding anything to the contrary in the foregoing, it shall be the duty of each Owner to notify the Association of the Voting Representative for such Owner's Lot or Unit.

Section 4. Enforcement. Enforcement of these covenants and restrictions shall be accomplished by means of a proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure of the Association, the Declarant, the ARB, or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 5. Severability. Invalidation or unenforceability of any one of these covenants or restrictions or any part, clause or word hereof, or the application thereof in specific circumstances, by judgment or court order shall not affect any other provisions or applications in other circumstances, all of which shall remain in full force and effect.

Section 6. Amendment Procedures.

A. Resolution. A resolution adopting a proposed Amendment to this Declaration may be proposed by either the Board of Directors of the Association acting upon a vote of the majority of the Directors, or by a majority of the Members of the Association, whether meeting as Members or by instrument in writing signed by them.

B. Notice. Upon any amendment or amendments to the Declaration being proposed by the Board of Directors or Members, such proposed amendment or amendments shall be transmitted to the President of the Association or other Officer of the Association in the absence of the President, who, shall thereupon call a meeting of the Members of the Association and it shall be the duty of the Secretary to give each Member written or printed notice of such special meeting, stating the time and place thereof and reciting the proposed amendment or amendments in reasonably detailed form, which notice shall be mailed in not less than seven (7) days before the date set for such special meeting. Such notice shall also be posted in a conspicuous place on the Common Areas not less than seven (7) days prior to the date set for such meeting. If mailed, such notice shall be deemed to be properly given when deposited in the United States Mail, addressed to the Member at his post office address as it appears on the records of the Association, the postage thereon being prepaid. Any Member may, by written waiver of such notice signed by such Member, waive such notice, and such waiver, when filed in the records of the Association, whether before or after the holding of the meeting shall be deemed equivalent to the giving of such notice to such Member.

C. Approval, Certification and Recordation. At such meeting, the amendment or amendments proposed may be approved by an affirmative vote of two-thirds (2/3) of the Members for such amendment or amendments to become effective. Thereupon, such amendment or amendments to the Declaration shall be transcribed and certified by the President and Secretary of the Association as having been duly adopted and the original or executed copy of such amendment or amendments so certified and executed with the same formalities as a deed shall be recorded in the Public Records of the County within thirty (30) days from the date on which the same became effective, such amendment or amendments to specifically refer to the recording data identifying the Declaration. Thereafter, a copy of said amendment or amendments in the form of which the same were placed of record by the Officers of the Association shall be delivered or mailed to all Members, but delivery of a copy thereof shall not be a condition precedent to the effectiveness of such amendment or amendments.

D. Declarant Amendments. In addition to the manner provided hereinabove for the amendment of this Declaration, the covenants, restrictions, easements, charges and liens of this Declaration may be amended, changed or added to at any time and from time to time (including, without limitation in order to meet any requirements, standards or guidelines of FNMA, FMHLC or FHA as to all or any portion of the Property) upon the execution and recordation of an instrument executed by the Declarant alone for so long as it holds title to any Lot or Unit affected by this Declaration and further provided that so long as the Declarant is the Owner of any Lot or Unit affected by this Declaration, the Declarant's consent must be obtained if such amendment, in the sole judgment of the Declarant, affects its interest.

Notwithstanding anything to the contrary hereinabove set forth, the Declarant alone may execute and record an amendment to this Declaration to correct scrivener's errors, and no amendment of this Declaration shall abridge, modify, eliminate, prejudice, limit, amend or alter the rights of the Declarant as set forth in the Declaration without the prior written consent of the Declarant which may be withheld in the sole discretion of the Declarant.

E. Amendment Limitations. Notwithstanding terms of any amendment to this Declaration, no amendment shall eliminate those Common Area maintenance responsibilities and corresponding Assessments for the payment of maintenance of Common Areas as a duty or function of the Association or any of its successors in interest.

Section 7. Conflict. This Declaration shall take precedence over conflicting provisions in the Articles of Incorporation and Bylaws of the Association and the Articles shall take precedence over the Bylaws.

Section 8. Effective Date. This Declaration shall become effective upon its recordation in the Public Records of the County.

Section 9. Captions. The captions used in this Declaration and exhibits attached hereto, amendments thereof and supplements thereto are inserted solely as a matter of convenience and shall not be relied upon or used in construing the text of this Declaration or any exhibits hereto or amendments thereof and supplements thereto.

Section 10. Standards for Consent, Approval, Completion and Other Action. Whenever this Declaration shall require the consent, substantial completion, or other action by the Declarant, the Association or the ARB, such consent, approval or action may be withheld in the sole discretion of the party requested to give such consent or approval or take such action, and all matters required to be completed or substantially completed by the Declarant, the Association or the ARB shall be deemed so completed or substantially completed when such matters have been completed or substantially completed in the reasonable opinion of the Declarant, the Association or ARB, as appropriate.

Section 11. Easements. Should the intended creation of any easement provided for in this Declaration fail by reason of the fact that at the time of creation there may be no grantee in being having the capacity to take and hold such easement, then any such grant or easement deemed not to be so created shall nevertheless be considered as having been granted directly to the Association as agent for such intended grantees for the purpose of allowing the original party or parties to whom the easements were originally to have been granted the benefit of such easement and the Owners hereby designate the Declarant and the Association (or either

of them) as their lawful attorney-in-fact to execute any instrument on such Owners behalf as may hereafter be required or deemed necessary for the purpose of later creating such easement as it was intended to have been created herein. Formal language of grant or reservation with respect to such easements, as appropriate, is hereby incorporated in the easement provisions hereof to the extent not so recited in some or all of such provisions.

Section 12. Plats. In addition to this Declaration, the Property shall be subject to the additional covenants, restrictions, reservations and other terms and provisions set forth in the Plats of portions of the Property which are recorded or to be recorded in the Public Records of the County.

Section 13. Notices and Disclaimers as to Community Systems. Declarant, Declarant's Affiliates, the Association, or their successors, assigns or franchisees and any applicable cable telecommunications system operator (an "Operator") may, but are not obligated to, enter into contracts for the provision of alarm, life safety, emergency call or monitoring services through any Community Systems. DECLARANT, DECLARANT'S AFFILIATES, THE ASSOCIATION, AND THEIR FRANCHISEES, AND ANY OPERATOR, DO NOT GUARANTEE OR WARRANT, EXPRESSLY OR IMPLIEDLY, THE MERCHANTABILITY OR FITNESS FOR USE OF ANY SUCH COMMUNITY SYSTEM OR SERVICES, OR THAT ANY SYSTEM OR SERVICES WILL PREVENT INTRUSIONS, FIRES OR OTHER OCCURRENCES, OR THE CONSEQUENCES OF SUCH OCCURRENCES, REGARDLESS OF WHETHER OR NOT THE SYSTEM OR SERVICES ARE DESIGNATED TO MONITOR SAME; AND EVERY OWNER OR OCCUPANT OF PROPERTY SERVICED BY THE COMMUNITY SYSTEMS ACKNOWLEDGES THAT DECLARANT, DECLARANT'S AFFILIATES, THE ASSOCIATION OR ANY SUCCESSOR, ASSIGN OR FRANCHISEE OF THE DECLARANT, OR ANY OF THE OTHER AFORESAID ENTITIES AND ANY OPERATOR, ARE NOT INSURERS OF THE OWNER'S OR OCCUPANT'S PROPERTY OR OF THE PROPERTY OF OTHERS LOCATED ON THE PREMISES AND WILL NOT BE RESPONSIBLE OR LIABLE FOR LOSSES, INJURIES OR DEATHS RESULTING FROM SUCH OCCURRENCES. It is extremely difficult and impractical to determine the actual damages, if any, which may proximately result from a failure on the part of an alarm or monitoring service provider to perform any of its obligations with respect to such services and, therefore, every Owner or occupant of property receiving security services through the Community Systems agrees that Declarant, Declarant's Affiliates, the Association, or any successor, assign or franchisee thereof and any Operator assume no liability for loss or damage to property or for personal injury or death to persons due to any reason, including without limitation, failure in transmission of an alarm, interruption of other service or failure to respond to an alarm because of (a) any failure of the Owner's system; (b) any defective or damaged equipment, device, line or circuit; (c) negligence, active or otherwise, of the service provider or its officers, agents or employees; or (d) fire, flood, riot, war, act of God or other similar causes which are beyond the control of the service provider.

EVERY OWNER OR OCCUPANT OF PROPERTY OBTAINING SECURITY, LIFE SAFETY, OR EMERGENCY CALL SERVICES THROUGH THE COMMUNITY SYSTEMS FURTHER AGREES FOR THEMSELVES, THEIR GRANTEEES, TENANTS, GUESTS, INVITEES, LICENSEES, AND FAMILY MEMBERS THAT IF ANY LOSS, DAMAGE, INJURY OR DEATH SHOULD RESULT FROM A FAILURE OF PERFORMANCE OR OPERATION, OR FROM DEFECTIVE PERFORMANCE OR OPERATION, OR FROM

IMPROPER INSTALLATION, MONITORING OR SERVICING OF THE SYSTEM, OR FROM NEGLIGENCE, ACTIVE OR OTHERWISE, OF THE SECURITY SERVICE PROVIDER OR ITS OFFICERS, AGENTS, OR EMPLOYEES, THE LIABILITY, IF ANY, OF DECLARANT, DECLARANT'S AFFILIATES, THE ASSOCIATION, THEIR RESPECTIVE OFFICERS, BOARD OF DIRECTORS, EMPLOYEES OR AGENTS, ANY FRANCHISEE OF THE FOREGOING AND THE OPERATOR OR THEIR SUCCESSORS OR ASSIGNS, FOR LOSS, DAMAGE, INJURY OR DEATH SUSTAINED SHALL BE LIMITED TO A SUM NOT EXCEEDING TWO HUNDRED FIFTY AND NO/100 U.S. DOLLARS (\$250.00), WHICH LIMITATION SHALL APPLY IRRESPECTIVE OF THE CAUSE OR ORIGIN OF THE LOSS OR DAMAGE AND NOTWITHSTANDING THAT THE LOSS OR DAMAGE RESULTS DIRECTLY OR INDIRECTLY FROM NEGLIGENT PERFORMANCE, ACTIVE OR OTHERWISE, OR NON-PERFORMANCE BY AN OFFICER, AGENT OR EMPLOYEE OF DECLARANT, DECLARANT'S AFFILIATES, THE ASSOCIATION, THEIR RESPECTIVE OFFICERS, BOARD OF DIRECTORS, EMPLOYEES OR AGENTS, OR ANY FRANCHISEE, SUCCESSOR OR ASSIGN OF ANY OF SAME OR ANY OPERATOR. FURTHER, IN NO EVENT WILL DECLARANT, DECLARANT'S AFFILIATES, THE ASSOCIATION, THEIR RESPECTIVE OFFICERS, BOARD OF DIRECTORS, EMPLOYEES OR AGENTS, ANY OPERATOR OR ANY OF THEIR FRANCHISEES, SUCCESSORS OR ASSIGNS, BE LIABLE FOR CONSEQUENTIAL DAMAGES, WRONGFUL DEATH, PERSONAL INJURY OR COMMERCIAL LOSS, NOR SHALL ANY OWNER OR OCCUPANT OF PROPERTY, HIS GRANTEEES, HIS GUESTS, HIS INVITEES, LICENSEES AND FAMILY MEMBERS BE DEEMED TO HAVE RELIED UPON ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE RELATIVE TO ANY SECURITY MEASURES, LIFE SAFETY SYSTEM, AND EMERGENCY CALL SYSTEM THAT MAY HAVE BEEN RECOMMENDED, UNDERTAKEN OR INSTALLED WITHIN THE PROPERTY OR COMMUNITY.

In recognition of the fact that interruptions in cable television and other Community Systems services will occur from time to time, no person or entity described above shall in any manner be liable, and no user of any Community System shall be entitled to refund, rebate, discount or offset in applicable fees, for any interruption in Community Systems services, regardless of whether or not same is caused by reasons within the control of the then provider(s) of such services.

Section 14. Notices and Disclaimers As To Security. The Association may, but shall in no manner be obligated to maintain or support certain activities within the Property designed to make the Property safer than they otherwise might be. NEITHER THE ASSOCIATION, DECLARANT, DECLARANT'S AFFILIATES OR THEIR RESPECTIVE OFFICERS, BOARDS OF DIRECTORS, EMPLOYEES, AGENTS, OR SUCCESSORS SHALL IN ANY MANNER BE DEEMED TO BE INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTY. NEITHER THE ASSOCIATION, THE DECLARANT, DECLARANT'S AFFILIATES OR SUCCESSORS SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OR FAILURE TO PROVIDE THE SECURITY OR THE INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN, IF ANY.

All Owners and occupants of a Lot or Unit and their respective guests, tenants and invitees, as applicable, acknowledge that the Association and its Board of Directors, Officers, Declarant, its affiliates, designees and successors and the ARB in no manner represent or warrant that any controlled-access gate, fire protection system, alarm system or other security system designated by or installed according to guidelines established by Declarant or the ARB may not be compromised or circumvented, that any life safety, fire protection system, burglar alarm, controlled access gate or other security systems will prevent loss by fire, smoke, robbery, burglary, theft, hold-up, or otherwise, nor that fire protection systems, burglar alarms, controlled access gates or other security systems will in all cases provide the detection or protection for which the system is designed or intended.

EACH OWNER AND OCCUPANT OF ANY LOT OR UNIT, AND THEIR RESPECTIVE GUESTS, TENANTS, AND INVITEES, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, DECLARANT, DECLARANT'S AFFILIATES, THEIR BOARDS OF DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS, SUCCESSORS AND DESIGNEES ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT AND THEIR RESPECTIVE GUESTS, TENANTS AND INVITEES ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO UNITS, LOTS AND IMPROVEMENTS THEREON AND TO THE CONTENTS OF UNITS, AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS, OFFICERS, DECLARANT, DECLARANT'S AFFILIATES, DESIGNEES AND SUCCESSORS, HAVE MADE NO REPRESENTATIONS OR WARRANTIES, NOR HAS ANY OWNER OR OCCUPANT, OR THEIR RESPECTIVE GUESTS, TENANTS OR INVITEES, RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY LIFE SAFETY SYSTEM, FIRE PROTECTION SYSTEM, BURGLAR ALARM, CONTROLLED ACCESS GATE, OR OTHER SECURITY SYSTEMS RECOMMENDED OR COMMENDED OR INSTALLED FOR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTY. EACH OWNER AND OCCUPANT OF ANY LOT OR UNIT AND THEIR RESPECTIVE GUESTS, TENANTS AND INVITEES ACKNOWLEDGES AND UNDERSTANDS THAT GRAND HARBOR IS WITHIN THE JURISDICTIONAL LIMITS OF INDIAN RIVER COUNTY, FLORIDA AND SERVICED BY THE SHERIFF'S DEPARTMENT OF INDIAN RIVER COUNTY WHO WILL BE RESPONSIBLE FOR THE SAFETY OF THE OWNERS AND ALL OCCUPANTS OF LOTS OR UNITS. ALL OWNERS ARE ADVISED TO NOTIFY THE SHERIFF'S DEPARTMENT OF INDIAN RIVER COUNTY OF ANY AND ALL UNIT, SAFETY AND PROPERTY EMERGENCIES IN THE GRAND HARBOR COMMUNITY.

Section 15. Covenants Running With The Land. ANYTHING TO THE CONTRARY HEREIN NOTWITHSTANDING AND WITHOUT LIMITING THE GENERALITY (AND SUBJECT TO THE LIMITATIONS) OF OTHER APPLICABLE SECTIONS HEREOF, IT IS THE INTENTION OF ALL PARTIES AFFECTED HEREBY (AND THEIR RESPECTIVE HEIRS, PERSONAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS) THAT THESE COVENANTS AND RESTRICTIONS SHALL RUN WITH THE LAND AND WITH TITLE TO THE PROPERTY. WITHOUT LIMITING THE GENERALITY OF ANY OTHER SECTION HEREOF, IF ANY PROVISION OR APPLICATION OF THIS DECLARATION WOULD PREVENT THIS DECLARATION

FROM RUNNING WITH THE LAND AS AFORESAID, SUCH PROVISION AND/OR APPLICATION SHALL BE JUDICIALLY MODIFIED, IF AT ALL POSSIBLE, TO COME AS CLOSE AS POSSIBLE TO THE INTENT OF SUCH PROVISION OR APPLICATION AND THEN BE ENFORCED IN A MANNER WHICH WILL ALLOW THESE COVENANTS AND RESTRICTIONS TO SO RUN WITH THE LAND; BUT IF SUCH PROVISION AND/OR APPLICATION CANNOT BE SO MODIFIED, SUCH PROVISION AND/OR APPLICATION SHALL BE UNENFORCEABLE AND CONSIDERED NULL AND VOID IN ORDER THAT THE PARAMOUNT GOAL OF THE PARTIES AFFECTED HEREBY (THAT THESE COVENANTS AND RESTRICTIONS RUN WITH THE LAND AS AFORESAID) BE ACHIEVED.

Section 16. Limitation on Association. Anything in this Declaration to the contrary notwithstanding, the existence or exercise of any easement, right, power, authority, privilege or duty of the Association as same pertains to any condominium located or which may be within the Property which would cause the Association to be subject to Chapter 718, Florida Statutes, shall be null, void and of no effect to the extent, but only to the extent, that such existence or exercise is finally determined to subject the Association to said Chapter 718. It is the intent of this provision that the Association not be deemed to be a condominium association, nor the Common Areas or Club Facilities shall be deemed to be common elements of any such condominium, within the meaning of applicable laws or administrative rules for any purpose.

Section 17. Club Facilities and Commercial/Retail Facilities. The Property is bounded on the north by Club Facilities and on the north and northeast by certain commercial property. Owners will be subjected to the usual and common traffic and noise level associated with Club events, commercial transactions, and maintenance of the Club Facilities and commercial property. SELLER MAKES NO REPRESENTATIONS OR WARRANTIES AS TO THE FREQUENCY OR AMOUNT OF VEHICULAR TRAFFIC OVER THE ROADS WITHIN THE PROPERTY IN CONNECTION WITH THE CLUB FACILITIES OR COMMERCIAL PROPERTY, OR NOISE CAUSED BY SUCH VEHICULAR TRAFFIC. **NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS DECLARATION, EACH OWNER AND THEIR RESIDENTS, GUESTS AND INVITEES WITHIN THE PROPERTY ACKNOWLEDGE AND AGREE THAT THE USES OF SUCH CLUB FACILITIES AND COMMERCIAL PROPERTY INHERENTLY INVOLVE SOME LEVEL OF NOISE, PHYSICAL ACTIVITY AND COMMERCIAL TRANSACTIONS BEYOND WHAT WOULD NORMALLY EXIST IN A RESIDENTIAL NEIGHBORHOOD AND THAT SUCH ACTIVITY AND NOISE SHALL NOT BE DEEMED TO CONSTITUTE A NUISANCE IN ANY MANNER.**

Section 18. DISCLAIMER AS TO VIEWS. DECLARANT HEREBY DISCLAIMS ANY AND ALL EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS OF ANY KIND AS TO CONTINUANCE OF ANY PARTICULAR VIEW (IT BEING UNDERSTOOD AND AGREED THAT CONSTRUCTION WITHIN THE PROPERTY OR ON ANY ADJACENT PROPERTIES MAY OBSTRUCT OR ALTER SUCH VIEW).

Section 19. Notices and Disclaimers As To Water Bodies. ALL WATERBODIES WITHIN THE FALLS AT GRAND HARBOR SHALL BE AESTHETIC AMENITIES ONLY, AND NO OTHER USE THEREOF, INCLUDING, WITHOUT

LIMITATION, FISHING, BOATING, SWIMMING, PLAYING, OR USE OF PERSONAL FLOTATION DEVICES, SHALL BE PERMITTED. LAKES, SWALES AND WATERBODIES, WHETHER MAN-MADE, ALTERED OR NATURAL, ARE PART OF OR CONTRIBUTE TO THE WATER MANAGEMENT SYSTEM. RAINFALL AND GROUNDWATER ELEVATIONS MAY AFFECT THE DEPTH OF WATERBODIES FROM DRY TO DEEP, AND THE MAINTENANCE OF A PARTICULAR WATER LEVEL IS NOT THE RESPONSIBILITY OF THE ASSOCIATION, DECLARANT OR THE GRAND HARBOR COMMUNITY ASSOCIATION. DEPTHS OF LAKES, SWALES AND WATERBODIES MAY BE DECEIVING. DUE TO DESIGN, CONSTRUCTION, GROUNDWATER LEVELS AND OTHER CONDITIONS, BOTTOMS AND EMBANKMENTS MAY VARY IN THE ANGLE OF SLOPE, WITH THE RESULTING POSSIBILITY OF STEEP DROP-OFFS TO DEEP WATER LEVELS. ALL PERSONS, OWNERS, LENDERS AND ALL OF THEIR INVITEES AND LICENSEES AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING ANY USE OF, ANY PORTION OF THE PROPERTIES (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USES) ARE HEREBY PUT ON NOTICE OF THESE CONDITIONS OF THE PROPERTIES, NATURAL, ALTERED AND MAN-MADE, AND BY ENTERING THE PROPERTIES OR ACQUIRING ANY INTEREST IN ANY PART OF THE PROPERTIES, ACKNOWLEDGE THE NECESSARY EXISTENCE OF THESE CONDITIONS WHICH, UNDER CERTAIN CIRCUMSTANCES, MAY BE HAZARDOUS AND ASSUME THE RISK OF INJURY OR DAMAGE AS A RESULT THEREOF. NEITHER DECLARANT, CLUB OWNER, ASSOCIATION NOR THE GRAND HARBOR COMMUNITY ASSOCIATION SHALL HAVE A DUTY TO PROTECT ANYONE FROM THE CONSEQUENCES OF CONTACT WITH THESE CONDITIONS. EACH OWNER BY ACCEPTANCE OF A DEED TO ANY LOT OR UNIT ACKNOWLEDGES AND KNOWINGLY ASSUMES THE RISK OF PERSONAL OR PROPERTY DAMAGE ARISING FROM CONDITIONS OF THE PROPERTY, WHETHER NATURAL, ALTERED OR MAN-MADE AND EACH OWNER HEREBY WAIVES AND RELEASES DECLARANT, CLUB OWNER, ASSOCIATION, THE GRAND HARBOR COMMUNITY ASSOCIATION AND ANY GUEST, EMPLOYEE, LICENSEE, INVITEE, DIRECTOR, PARTNER OR OFFICER OR LENDER OF ANY SUCH PARTIES FROM ANY AND ALL ACTION, CAUSE, SUIT, RECKONING, CLAIM OR DEMAND WHATSOEVER, IN LAW OR IN EQUITY, AS A RESULT OF PROPERTY DAMAGE OR PERSONAL-INJURY TO SUCH OWNER, OWNER'S GUESTS, EMPLOYEES, LICENSEES OR INVITEES CAUSED BY CONDITIONS OF THE PROPERTY, WHETHER NATURAL, ALTERED OR MAN-MADE OR ANY SPECIES OF ANIMAL, REPTILE OR OTHER ANIMATE OR INANIMATE OBJECT. NEITHER DECLARANT, CLUB OWNER NOR THE ASSOCIATION, NOR THE GRAND HARBOR COMMUNITY ASSOCIATION, NOR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, COMMITTEE OR BOARD MEMBERS, EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OR SUBCONTRACTORS (COLLECTIVELY, THE "LISTED PARTIES"), SHALL BE LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE WATER QUALITY OR LEVEL IN ANY LAKE, POND, CANAL, CREEK, STREAM OR OTHER WATER BODY WITHIN THE PROPERTY, EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY, OR CONTRACTED FOR WITH, AN APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY OR AUTHORITY. THERE IS NO GUARANTEE BY THE LISTED PARTIES THAT WATER LEVELS WILL BE CONSTANT OR AESTHETICALLY PLEASING AT ANY PARTICULAR TIME. FURTHER, ALL OWNERS AND USERS OF ANY PORTION

OF THE PROPERTY LOCATED ADJACENT TO OR HAVING A VIEW OF ANY OF THE AFORESAID WATER BODIES SHALL BE DEEMED, BY VIRTUE OF THEIR ACCEPTANCE OF THE DEED TO OR USE OF SUCH PROPERTY, TO HAVE AGREED TO HOLD HARMLESS THE LISTED PARTIES FOR ANY AND ALL CHANGES IN THE QUALITY AND LEVEL OF THE WATER IN SUCH BODIES. CONTRACTORS, SUBCONTRACTORS, LICENSEES AND OTHER DESIGNEES SHALL, FROM TIME TO TIME, EXCAVATE, CONSTRUCT AND MAINTAIN LAKES AND WATER BODIES WITHIN OR IN PROXIMITY TO THE PROPERTY. BY THE ACCEPTANCE OF THEIR DEED OR OTHER CONVEYANCE OR MORTGAGE, LEASEHOLD, LICENSE OR OTHER INTEREST, AND BY USING ANY PORTION OF THE PROPERTY, EACH SUCH OWNER, OCCUPANT OR USER AUTOMATICALLY ACKNOWLEDGES, STIPULATES AND AGREES: (i) THAT NONE OF THE AFORESAID ACTIVITIES SHALL BE DEEMED NUISANCES OR NOXIOUS OR OFFENSIVE ACTIVITIES, HEREUNDER OR AT LAW GENERALLY; (ii) NOT TO ENTER UPON, OR ALLOW CHILDREN, GUESTS OR OTHER PERSONS UNDER THEIR CONTROL OR DIRECTION TO ENTER UPON (REGARDLESS OF WHETHER SUCH ENTRY IS A TRESPASS OR OTHERWISE) ANY LAKE OR WATER BODY WITHIN THE PROPERTY, EXCEPT AS SPECIFICALLY PERMITTED BY THIS DECLARATION OR THE RULES AND REGULATIONS ADOPTED BY THE ASSOCIATION; (iii) THAT DECLARANT, THE ASSOCIATION, NOR THE GRAND HARBOR COMMUNITY ASSOCIATION AND THE OTHER LISTED PARTIES SHALL NOT BE LIABLE BUT, RATHER, SHALL BE HELD HARMLESS, FROM ANY AND ALL LOSSES, DAMAGES (COMPENSATORY, CONSEQUENTIAL, PUNITIVE OR OTHERWISE), INJURIES OR DEATHS ARISING FROM OR RELATING TO THE AFORESAID ACTIVITIES; (iv) ANY PURCHASE OR USE OF ANY PORTION OF THE PROPERTY HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING; AND (v) THIS ACKNOWLEDGMENT AND AGREEMENT IS A MATERIAL INDUCEMENT TO DECLARANT TO SELL, CONVEY AND/OR ALLOW THE USE OF THE APPLICABLE PORTION OF THE PROPERTY. ALL PERSONS ARE HEREBY NOTIFIED THAT FROM TIME TO TIME ALLIGATORS AND OTHER WILDLIFE MAY INHABIT OR ENTER INTO WATER BODIES WITHIN THE PROPERTY AND MAY POSE A THREAT TO PERSONS, PETS AND PROPERTY, BUT THAT THE LISTED PARTIES ARE UNDER NO DUTY TO PROTECT AGAINST, AND DO NOT IN ANY MANNER WARRANT AGAINST, ANY DEATH, INJURY OR DAMAGE CAUSED BY SUCH WILDLIFE. Neither Declarant, Club Owner, the Association nor the Grand Harbor Community Association shall be obligated to erect fences, gates, or walls around or adjacent to any waterbody within Grand Harbor Community. Notwithstanding the foregoing, an Owner may erect a fence adjacent to the boundary of a waterbody but within the boundary of a Unit or Lot with the prior approval of the ARB, as applicable.

Section 20. Certain Reserved Rights of Declarant With Respect To Community Systems. Without limiting the generality of any other applicable provisions of this Declaration, and without such provisions limiting the generality hereof, Declarant hereby reserves and retains to itself:

A. The title to any Community Systems and a perpetual easement for the placement, location and maintenance thereof;

B. The right to connect, from time to time, the Community Systems to such receiving or intermediary transmission source(s) as Declarant may in its sole discretion deem appropriate including, without limitation, companies licensed to provide CATV service in the County and City, for which service Declarant shall have the right to charge any users a reasonable fee which shall not exceed any maximum allowable charge provided for in the Code of Laws and Ordinances of the City and County; and

C. The right to offer from time to time alarm and monitoring services through the Community Systems.

Section 21. Use of Property Name. All parties owning or otherwise making any use of any portion of the Property shall be deemed, by virtue of accepting such ownership or making such use, to have covenanted and agreed that (i) "The Falls at Grand Harbor" and "Grand Harbor" is, or will become, a registered trademark of the Declarant, (ii) except as provided below, no usage of that mark or name or any variation thereof will be made in naming or referring to any business or activity within or outside of the Property or in describing or referring to the location of any business or enterprise conducted within or outside of the Property and (iii) generally, no usage of that mark or name will be made whatsoever without the express prior written approval of the Declarant.

Section 22. Delivery of Documents to Subsequent Owners. Owners shall be obligated to deliver the documents originally received from the Declarant, containing this and other declarations and documents, to any grantee or lessee of such Owners.

Section 23. Joinder by The Falls at Grand Harbor Property Owners Association, Inc. This Declaration is being executed by THE FALLS AT GRAND HARBOR PROPERTY OWNERS ASSOCIATION, INC. to acknowledge its joinder in this Declaration for the purpose of agreeing to perform its obligations as contained herein.

Section 24. Governing Law and Venue. The terms, covenants and conditions of this Declaration shall be construed, governed by and enforced in accordance with the laws of the State of Florida and venue for all purposes shall be deemed to be Indian River County, Florida.

Section 25. Gender and Plurality. Whenever the context so requires, the use of the masculine gender, the use of the singular to include the plural, and the use of the plural to include the singular.

Section 26. Owner Acceptance and Ratification. By acquisition of title to real property subject to this Declaration, each Owner thereby irrevocably ratifies, approves and affirms all provisions of the Declaration and actions of the Board with respect to the method of determination and collection of Assessments and Assessment rates for the year during which such Owner acquired title to his respective Lot, Unit, or other real property.

Section 27. Limitations of Actions. Any Owner, the Association, or any committee or group of Owners objecting to or in any manner contesting any Assessment, including, but not limited to, an Annual Assessment, Special Assessment or Individual Assessment, for any reason whatsoever, including, but not limited to, the amount, method of

apportionment or collection, must assert such objection or contest, in writing, within twelve (12) months following the Board's levying the Assessment which is the subject of the objection.

Section 28. Litigation Approval. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of seventy-five percent (75%) of the Members of the Association. This Section shall not apply, however, to:

A. Actions brought by the Association to foreclose liens or otherwise collect Assessments.

B. Actions brought by the Association to enforce the provisions of this Declaration, Articles, Bylaws or rules and regulations of the Association against any Owner, his guests, tenants, invitees or family members, provided that, in no manner shall this exception apply to actions brought by the Association against the Declarant, its affiliates, designees or any Officer, Director, employee, contractor or agent of the Association or Declarant, which actions shall require the seventy-five percent (75%) of the Member approval provided in this Section.

C. Counterclaims or cross-claims brought by the Association in proceedings instituted against it.

This Section shall not be amended unless such amendment is made or approved by Declarant and approved by the same percentage vote necessary to institute proceedings as provided herein and further approved by Grand Harbor Community Association, Inc.

Section 29. Additional Member Services. Declarant and Declarant's Affiliates reserve the right in their absolute discretion, to provide for additional services to Members of the Association within the Property and to areas outside the Property. All or a portion of the costs of operating such Member services, if established, shall be a General Expense of the Association. Each Owner and Member of the Association hereby acknowledges and agrees that there shall be no requirement that any Member services provided by the Declarant or Declarant's Affiliates be directly related to Common Areas or other property.

EXECUTED as of the date first above written.

SIGNATURES AND ACKNOWLEDGMENT ON NEXT PAGE

Signed, sealed and delivered Declarant:
in the presence of:

GH VERO BEACH
DEVELOPMENT LLC, A
DELAWARE LIMITED
LIABILITY COMPANY

BY: VERO BEACH
ACQUISITION LLC, A
DELAWARE LIMITED
LIABILITY COMPANY, ITS
MANAGING MEMBER

Maria Tiburcio

Sign Name
IRENE TIBURCIO

Print Name
[Signature]

Sign Name
LISA POLESA

Print Name

By: [Signature]

William A. Burke
Its: Vice President

STATE OF NEW YORK
COUNTY OF WESTCHESTER

This instrument was acknowledged before me this 12th day of AUGUST, 2005
by WILLIAM A. BURKE, as Vice President of VERO BEACH
ACQUISITION LLC, a Delaware limited liability company, as Managing Member of GH VERO
BEACH DEVELOPMENT LLC, a Delaware limited liability company, on behalf of the
company, who is personally known to me or who has produced _____
as identification.

[NOTARY SEAL]

[Signature]

Notary Public, State of ~~Florida~~ NEW YORK
My Commission Expires: OCT. 24, 2006

ANTHONY J. KUNNY
Notary Public, State of New York
No. 01KU5035078
Qualified in Westchester County
Commission Expires Oct. 24, ~~2005~~
2006

Joinder by THE FALLS AT GRAND HARBOR PROPERTY OWNERS ASSOCIATION, INC., pursuant to Article XIX, Section 23 hereof:

Signed, sealed and delivered presence of:

THE FALLS AT GRAND HARBOR PROPERTY OWNERS ASSOCIATION, INC., a Florida not-for-profit corporation

Debra L Fletcher

Sign Name:

DEBRA L FLETCHER

Print Name

By: Doug Bruk
Doug Bruk, President

Denielle M Landers

Sign Name

Denielle M. Landers

Print Name

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

This instrument was acknowledged before me this 14th day of August, 2005, by Doug Bruk, the President of THE FALLS AT GRAND HARBOR PROPERTY OWNERS ASSOCIATION, INC., a Florida not-for-profit corporation, on behalf of the Association, who is personally known to me or who has produced _____ as identification.

[NOTARY SEAL]

Denielle M Landers
Notary Public, State of Florida
My Commission Expires: _____

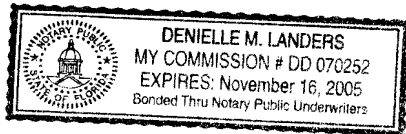


EXHIBIT "A"

LEGAL DESCRIPTION

Lots 1 through 65, inclusive, The Falls at Grand Harbor, Plat No. 29, according to the plat thereof, as recorded in Plat Book 19, Page s 53, 54, 55, 56, 57, of the Public Records of Indian River County, Florida.

EXHIBIT "B"

ARTICLES OF INCORPORATION

State of Florida



Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of THE FALLS AT GRAND HARBOR PROPERTY OWNERS ASSOCIATION, INC., a Florida corporation, filed on June 27, 2005, as shown by the records of this office.

The document number of this corporation is N05000006649.

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
Twenty-eighth day of June, 2005



CR2EO22 (2-03)

Glenda E. Hood
Glenda E. Hood
Secretary of State

FILED

05 JUN 27 PM 12:58

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

ARTICLES OF INCORPORATION

OF

THE FALLS AT GRAND HARBOR

PROPERTY OWNERS ASSOCIATION, INC.

The undersigned incorporator hereby adopts the following Articles of Incorporation for the purpose of forming a not-for-profit corporation under the "Florida Not-For-Profit Corporation Act."

ARTICLE I

CORPORATE NAME

The name of the Corporation shall be THE FALLS AT GRAND HARBOR PROPERTY OWNERS ASSOCIATION, INC., (hereinafter the "Association").

ARTICLE II

DURATION

The duration of the Corporation shall be perpetual. The address of the principal office of this corporation shall be 3755 7th Terrace, Suite 304, Vero Beach, Florida 32960, and the mailing address shall be the same.

ARTICLE III

DEFINITIONS

The terms used in these Articles shall have the same definitions and meanings as those set forth in the Declaration of Covenants, Restrictions and Easements for THE FALLS AT GRAND HARBOR, to be recorded in the Public Records of Indian River County, Florida, unless herein provided to the contrary, or unless the context otherwise requires.

ARTICLE IV

COMMENCEMENT OF CORPORATE EXISTENCE

The corporate existence of the Association shall commence at the time these Articles of Incorporation are filed by the Department of State of the State of Florida.

ARTICLE V

PURPOSES AND POWERS

The Association is not organized for pecuniary profit or financial gain, and no part of the Association's assets or income shall inure to the benefit of any Director, Officer or Member of the Association except as may be authorized by the Board of Directors in accordance with the terms and provisions of the Bylaws of the Association with respect to compensation of Directors, Officers or Members of the Association for the rendition of unusual or exceptional services to the Association.

The purposes for which the Association is formed, and the powers which may be exercised by the Association, are:

1. To own, operate, maintain, preserve or replace, and to provide architectural control over the Lots, Units, and Common Areas located on that certain parcel of real property situate in Indian River County, Florida, known as ST. PHILIP'S ISLAND, and described in Exhibit "A" to the Declaration; and to those Lots, Units and Common Areas that may be annexed or otherwise added to the Property from time to time pursuant to the Declaration; and

2. To acquire by gift, purchase or otherwise, own, build, improve, operate, repair, maintain and replace, lease, transfer, convey, or otherwise dispose of real property, buildings, improvements, fixtures and personal property in connection with the business and affairs of the Association; and

3. To dedicate, sell or transfer all or any part of, or any interest in, the Common Areas to any public agency, taxing authority, or utility for such purposes and subject to such conditions as may be agreed to by the Board of Directors, provided that such decision, sale, or transfer is approved by a two-thirds (2/3) vote of the Board of Directors and prior written consent of the Declarant is obtained for so long as the Declarant owns one (1) Lot in the Property; and

4. To establish, levy, collect and enforce payment of all assessments and charges pursuant to the terms and provisions of the Declaration or Bylaws of the Association and to use the proceeds thereof in the exercise of its powers and duties; and

5. To pay all expenses in connection with and incident to the conduct of the business and affairs of the Association; and

6. To borrow money and to pledge, mortgage or hypothecate any or all of the real or personal property owned by the Association as security for money borrowed or debts incurred by the Association; and

7. To annex additional real property to the Property pursuant to the terms and provisions of the Declaration; and

8. To exercise such powers which are now or may hereafter be conferred by law upon an Association organized for the purposes set forth herein, or which may be necessary or incidental to the powers so conferred; and

9. To grant easements on or through the Common Areas or any portion thereof; and

10. To exercise all of the powers and privileges, and to perform all of the duties and obligations, of the Association, as set forth in the Declaration, as the same may be amended from time to time; and

11. To promulgate, amend or enforce rules, regulations, bylaws, covenants, restrictions or agreements to effectuate the purposes for which the Association is organized; and

12. To contract for the management of the Association and to delegate in such contract all or any part of the powers and duties of the Association, and to contract for services to be provided to Owners such as, but not limited to, utilities services; and

13. To purchase insurance upon the Property or any part thereof and insurance for the protection of the Association, its Officers, Directors and Owners; and

14. To employ personnel and contract with professionals including, but not limited to, attorneys, accountants, architects and engineers to perform the services required for the proper operation of the Association.

15. To appear through its authorized agents before any legislative, judicial, administrative or governmental body concerning matters affecting the Property and/or the Association.

The foregoing clauses shall be construed both as purposes and powers and the enumeration of specific purposes and powers shall not be construed to limit or restrict in any way the purposes and powers of the Association that may be granted by applicable law and any amendments thereto or otherwise conferred upon not-for-profit corporations by common law and the statutes of the State of Florida in effect from time to time.

ARTICLE VI

BOARD OF DIRECTORS

A. NUMBER AND QUALIFICATIONS. The business and affairs of the Association shall be managed and governed by a Board of Directors. The number of Directors constituting the initial Board of Directors shall be three (3). The number of Directors may be increased or decreased from time to time in accordance with the Bylaws of the Association, but in no event shall there be less than three (3) Directors. Directors need not be Members of the Association.

B. DUTIES AND POWERS. All of the duties and powers of the Association existing under the Declaration, these Articles and the Bylaws shall be exercised exclusively by the Board of Directors, its agents, contractors or employees, subject only to approval by Members when such approval is specifically required.

C. ELECTION; REMOVAL. Directors of the Association shall be elected at the Annual Meeting of the Members in the manner determined by and subject to the qualifications set forth in the Bylaws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Bylaws.

D. TERM OF INITIAL DIRECTORS. The Developer shall appoint the members of the first Board of Directors who shall hold office for the periods described in the Bylaws.

E. INITIAL DIRECTORS. The names and addresses of the first Board of Directors who shall hold office until their successors are elected and have taken office, as provided in the Bylaws are as follows:

Doug Bruk
3755 7th Terrace, Suite 304
Vero Beach, Florida 32960

Annabel North
3755 7th Terrace, Suite 304
Vero Beach, Florida 32960

Jennifer Grohol
3755 7th Terrace, Suite 304
Vero Beach, Florida 32960

ARTICLE VII

TRANSACTION IN WHICH DIRECTORS OR OFFICERS ARE INTERESTED

No contract or transaction between the Association and one or more of its Directors or Officers or between the Association and any other corporation, partnership, association or other organization in which one or more of its Officers or Directors are Officers or Directors of this Association shall be invalid, void or voidable solely for this reason or solely because the Officer or Director is present at, or participates in, meetings of the board or committee thereof which authorized the contract or transaction, or solely because said Officer's or Director's votes are counted for such purpose. No Director or Officer of the Association shall incur liability by reason of the fact that said Director or Officer may be interested in any such contract or transaction. Interested Directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorized the contract or transaction.

Similarly, no contract or transaction between the Association and any other corporation, partnership, association, or organization in which one or more of the Officers or Directors of this Association may be an employee or have another affiliated relationship shall be invalid, void, or voidable solely because the Officer or Director of this Association serves as an Officer, Director, employee, principal or is otherwise affiliated with said corporation, partnership, association or other organization which is entering into a contract or transaction with the Association.

ARTICLE VIII

OFFICERS

The affairs of the Association shall be administered by the Officers holding the offices designated in the Bylaws. The Officers shall be elected by the Board of Directors of the Association at its first meeting following the Annual Meeting of the Members of the Association and shall serve at the pleasure of the Board of Directors. The Bylaws may provide for the removal of Officers, for filling vacancies and for the duties of the Officers. The names and addresses of the Officers who shall serve until their successors are designated by the Board of Directors are as follows:

President: Doug Bruk
3755 7th Terrace, Suite 304
Vero Beach, Florida 32960

Vice President: Annabel North
3755 7th Terrace, Suite 304
Vero Beach, Florida 32960

Secretary: Jennifer Grohol
3755 7th Terrace, Suite 304
Vero Beach, Florida 32960

Treasurer: Jennifer Grohol
3755 7th Terrace, Suite 304
Vero Beach, Florida 32960

ARTICLE IX

MEMBERSHIP & VOTING

A. MEMBERSHIP. Every person or entity who is an Owner as defined in the Declaration, shall be a Member of the Association. Any person or entity who holds an interest in any Lot or Unit merely as security for the performance of an obligation shall not be a Member of the Association unless and until such holder of a security interest acquires title pursuant to foreclosure or judicial proceeding or deed-in-lieu of foreclosure. Membership

shall be appurtenant to and may not be separated from ownership of any Lot or Unit which is subject to assessment by the Association. Each Owner shall become a Member of the Association upon title to the Lot or Unit being conveyed by deed to such Owner and upon the recording of said deed among the Public Records of Indian River County, Florida, or upon a transfer of title by operation of law. Transfer of membership shall be established by the recording among the Public Records of Indian River County, Florida, of a warranty deed or other instrument establishing a record title to a Lot or Unit, the Owner or Owners designated by such instrument thereby becoming a Member or Members of the Association and the membership of the prior Owner or Owners thereupon being terminated.

B. VOTING. All votes shall be cast by Members in accordance with Article 5 of the Declaration as the same may be amended from time to time.

ARTICLE X

AMENDMENT

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

A. PROPOSAL. Notice of the subject matter for proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered.

B. ADOPTION. The resolution for the adoption of a proposed amendment may be proposed by either a majority of the Board of Directors or by not less than two-thirds (2/3) of the Members of the Association. The approvals must be by not less than two thirds (2/3) of all the Members of the Association represented at a meeting at which a quorum thereof has been attained.

C. LIMITATION. No amendment shall make any changes in the qualifications for membership, nor in the voting rights or property rights of Voting Members or Members, nor any changes in Article V or Article XIII of the Articles entitled "Purposes and Powers" and "Indemnification," respectively, without the approval in writing of all Members. No amendment shall be made that is in conflict with the Declaration or Bylaws, nor shall any amendment make changes which would in any way affect the rights, privileges, powers or options herein provided in favor of or reserved to the Declarant, or an affiliate of the Declarant, unless the Declarant shall join in the execution of the amendment. Notwithstanding anything to the contrary contained herein, until Declarant has turned over control of the Association as provided in Article XII of the Declaration, no amendment to these Articles shall be effective unless the Declarant shall consent to and join in the execution of the amendment. No amendment to this Paragraph C of Article X shall be effective.

D. DECLARANT AMENDMENT. The Declarant may amend these Articles consistent with the provisions of the Declaration allowing certain amendments to be effected by the Declarant alone, including, but not limited to, Declarant's amendment to correct any scrivener's error as determined by Declarant in its sole discretion.

E. RECORDING. A copy of each amendment shall be filed with the Secretary of State pursuant to the provisions of applicable Florida law, and a copy certified by the Secretary of State shall be recorded in the Public Records of Indian River County, Florida.

ARTICLE XI

BYLAWS

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

ARTICLE XII

INCORPORATOR

The name and address of the incorporator of the Association is:

| <u>Name</u> | <u>Address</u> |
|-------------|--|
| Doug Bruk | 3755 7th Terrace, Suite 304 Vero Beach, Florida 32960 |

ARTICLE XIII

INDEMNIFICATION

A. INDEMNITY. The Association shall indemnify, hold harmless and defend any person (hereinafter referred to as "Indemnitee") who was or is a party or is threatened to be made a party to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a Director, employee, Officer or agent of the Association, including those selected, appointed, or elected by the Declarant, against expenses (including attorneys' fees and appellate attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding, unless (a) a court of competent jurisdiction determines, after all available appeals have been exhausted or not pursued by the proposed Indemnitee, that he was grossly negligent or that he acted willfully or wantonly in disregard of the interests of the Association, and, with respect to any criminal action or proceeding, that he had reasonable cause to believe his conduct was unlawful, and (b) such court further specifically determines that indemnification should be denied. The termination of any action, suit or proceeding - by judgment, order, settlement, conviction or upon plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person was grossly negligent or that he acted willfully or wantonly in disregard of the interests of the Association, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

B. **AGREEMENT TO DEFEND.** To the extent that a Director, Officer, employee or agent of the Association is a party or is threatened to be made a party to any threatened, pending or contemplated action, suit or proceeding whether civil, criminal, administrative or investigative by reason of the fact that he is or was a Director, Officer, employee or agent of the Association, including those selected, appointed, or elected by the Developer, the Association hereby agrees to defend and provide counsel to such Indemnitee and shall advance all attorneys fees and costs at all pretrial, trial and appellate levels. In the event retainers for attorneys' fees and/or costs are necessary to be provided, the Association shall advance such retainers, as well as having full responsibility for payment of attorneys' fees and costs that may be billed or otherwise become due during the pendency of any action, suit or proceeding or in advance of same in the event such action, suit or proceeding is threatened. The Indemnitee shall have the right of reasonable approval of any attorneys proposed to represent said Indemnitee. The agreement to defend provided for in this section shall be in addition and not in lieu of such other rights of reimbursement, indemnification and hold harmless provisions existing under this Article or any other provisions of the Articles and Bylaws of the Association, the Declaration and as elsewhere provided by law.

C. **EXPENSES.** To the extent that a Director, Officer, employee or agent of the Association including those selected, appointed, or elected by the Developer, has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Paragraph A above, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys, fees and appellate attorneys fees) actually and reasonably incurred by him in connection therewith. Any costs or expenses incurred by the Association in implementing any of the provisions of this Article XIII shall be fully assessable against Owners as Common Expenses of the Association.

D. **ADVANCES.** Expenses incurred in defending a civil or criminal action, suit or proceeding shall be paid by the Association in advance of the final disposition of such action, suit or proceeding, as provided hereinabove, by or on behalf of the affected Director, Officer, employee or agent, including those selected, appointed, or elected by the Developer, to repay such amount unless it shall ultimately be determined that he is not entitled to be indemnified by the Association as authorized in this Article XIII, in which event, the Indemnitee shall reimburse the Association for all attorneys' fees and costs advanced by it on behalf of the Indemnitee.

E. **MISCELLANEOUS.** The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any bylaws, agreement, vote of Members, Florida law, or otherwise, and shall continue as to a person who has ceased to be a Director, Officer, employee or agent, including those selected, appointed, or elected by the Developer, and shall inure to the benefit of the heirs and personal representatives of such person.

F. **INSURANCE.** The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a Director, Officer, employee or agent of the Association, including those selected, appointed, or elected by the Declarant, or is or was

serving, at the request of the Association, as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article.

G. AMENDMENT. Anything to the contrary herein notwithstanding, the provisions of this Article XIII may not be amended without the prior written consent of all persons whose interest would be adversely affected by such amendment.

ARTICLE XIV

**SELF DEALINGS VALIDITY OF AGREEMENT
AND WAIVER OF CLAIMS**

A. SELF DEALING. No contract, agreement or undertaking of any sort between or among the Association, Directors, Officers, Members or the Developer shall be invalidated or affected by reason that any of them hold the same or similar positions with another condominium, homeowners or property owners association within the Property or that they are financially interested in the transaction or that they are employed by Declarant or Declarant's Affiliates.

B. VALIDITY OF AGREEMENT. No contract, agreement or undertaking of any sort between the Association and any entity or individual shall be invalidated or affected by reason that the Association, its Directors, Officers, the Declarant, its agents or employees hold a financial interest in or with the individual or entity.

C. WAIVER OF CLAIMS. By acquisition of a Lot or Unit, or any interest therein, within the Property, each and every individual or entity, of whatsoever kind or nature, thereby waives any claim for damages or other relief grounded in tort, contract, equity or otherwise arising out of the negotiation, execution, performance and enforcement of contracts, agreements or undertakings described above, that may accrue at the time of purchase or thereafter against the Association, its Directors, Officers, Members, the Declarant, Declarant's Affiliates, its agents or employees.

ARTICLE XV

DISSOLUTION

The Association may be dissolved by a unanimous vote of the Members at any regular or special meeting; provided, however, that the proposed action is specifically set forth in the notice of any such meeting, and that so long as Declarant owns one (1) or more Lots in the Property, the Declarant's written consent to the dissolution of the Association must first be obtained. In the event of the dissolution of this Association or any successor entity hereto, all Association property and maintenance obligations attributable to the Association shall be transferred to a successor entity or an appropriate governmental body for the purposes of

continuing the maintenance responsibilities originally performed by the Association or its successors in accordance with the terms and provisions of the Declaration.

ARTICLE XVI

INITIAL REGISTERED OFFICE AND AGENT

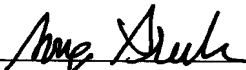
The street address of the initial registered office of the Association is:

3755 7th Terrace, Suite 304
Vero Beach, Florida 32960

and the name of the initial registered agent of the Association at said address is:

Doug Bruk
3755 7th Terrace, Suite 304
Vero Beach, Florida 32960

IN WITNESS WHEREOF, the undersigned has executed these Articles of Incorporation on this 24th day of June, 2005.




Doug Bruk
Incorporator

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me this 24 day of June, 2005 by Doug Bruk, Incorporator of THE FALLS AT GRAND HARBOR PROPERTY OWNERS ASSOCIATION, INC., a Florida not-for-profit corporation, on behalf of the corporation, and who is personally known to me.



(NOTARY SEAL)



Denielle M. Landers

Denielle M. Landers

Print Name of Notary Public
My Commission Expires:

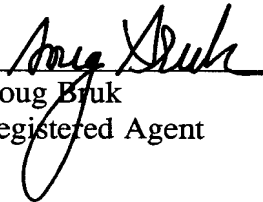
CERTIFICATE DESIGNATING PLACE OF BUSINESS OR DOMICILE FOR THE SERVICE OF PROCESS WITHIN THIS STATE, NAMING AGENT UPON WHOM PROCESS MAY BE SERVED

In compliance with the laws of Florida, the following is submitted:

First, that desiring to organize under the laws of the State of Florida, the corporation named in the foregoing Articles of Incorporation has named Doug Bruk whose address is: 3755 7th Terrace, Suite 304, Vero Beach, Florida 32960, County of Indian River, State of Florida, as its statutory registered agent.

Having been named statutory agent of said corporation at the place designated in this certificate, I hereby accept the same and agree to act in this capacity, and agree to comply with the provisions of Florida law relative to keeping the registered office open.

Dated this 24 day of June, 2005.



Doug Bruk
Registered Agent

FILED
05 JUN 27 PM 12:58
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

EXHIBIT "C"

BYLAWS

**BYLAWS OF THE FALLS AT GRAND HARBOR
PROPERTY OWNERS ASSOCIATION, INC.**

ARTICLE I

GENERAL PROVISIONS

Section 1. **Identity.** These are the Bylaws of THE FALLS AT GRAND HARBOR PROPERTY OWNERS ASSOCIATION, INC., a Florida not-for-profit corporation, incorporated under Chapter 617 of the Florida Statutes, the ARTICLES OF INCORPORATION of which were filed in the Office of the Secretary of State on the 27th day of June, 2005. THE FALLS AT GRAND HARBOR PROPERTY OWNERS ASSOCIATION, INC. hereinafter called the "Association" has been organized for the purpose of administering the operation and management of THE FALLS, hereinafter referred to as the "Property", established by Declarant according to the Declaration of Covenants, Restrictions and Easements for THE FALLS.

Section 2. **Bylaws Subject to Other Documents.** The provisions of these Bylaws are expressly subject to the terms, provisions and conditions contained in the ARTICLES OF INCORPORATION of THE FALLS AT GRAND HARBOR PROPERTY OWNERS ASSOCIATION, INC., referred to herein as the "Articles" and subject to the terms, provisions and conditions contained in the DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR THE FALLS, referred to herein as "Declaration" which will be recorded in the Public Records of Indian River County, Florida.

Section 3. **Applicability.** All Owners, tenants and occupants, their agents, servants, invitees, licensees and employees that use the Property, or any part thereof, are subject to these By-Laws, the Articles, Declaration and Rules and Regulations as promulgated from time to time.

Section 4. **Office.** The office of the Association shall be at 3755 7th Terrace, Suite 304, Vero Beach, Florida 32960 or at any other place designated by the Association.

Section 5. **Seal.** The seal of the Association shall bear the name of the Association, the word "FLORIDA," the words "CORPORATION NOT-FOR-PROFIT," and the year of incorporation.

Section 6. **Definitions.** All definitions set forth in the Declaration are hereby adopted by reference as though set forth herein verbatim.

ARTICLE II

MEMBERSHIP, VOTING, QUORUM, PROXIES

Section 1. Qualification of Members, Etc. The qualification of Members, the manner of qualification for membership and termination of such membership, and voting by Members, shall be determined by those provisions set forth in the Declaration, Articles and in these Bylaws.

Section 2. Quorum. At least thirty percent (30%) of the Members of the Association shall constitute a quorum at any Members' meeting. The joinder of a Member in the action of a meeting by signing and concurring in the minutes thereof, or by signing an attendance list if written minutes are not available, shall constitute the presence of such person for the purpose of determining a quorum.

Section 3. Corporate or Multiple Ownership of A Lot.

A. If a Lot or Unit is owned by more than one (1) person, or by an entity, including, but not limited to, a corporation, partnership, limited partnership, or trust, the person entitled to cast the vote for the Lot or Unit shall be designated by a certificate signed by all the record Owners of the Lot or Unit, filed with the Secretary of the Association. Upon acquiring title to a Lot or Unit, the record Owners shall promptly file such certificate with the Secretary of the Association. The person entitled to cast a vote pursuant to such certificate shall be designated as the "Voting Representative". Such person need not be an Owner, nor one of the joint Owners. Such certificate shall be valid until revoked or until superseded by a subsequent certificate or until a change occurs in the ownership of the Lot or Unit concerned. A certificate designating the person entitled to cast the vote for the Lot or Unit may be revoked by a record Owner. If a certificate designating the person entitled to cast the vote for a Lot or Unit for which the certificate is required is not on file, or has been revoked, the vote attributable to such Lot or Unit shall not be considered for any purpose, and the total number of authorized voters of the Association shall be reduced accordingly until such certificate is filed. If a Lot or Unit is owned by a husband and wife and in the event the husband and wife do not concur in the decision upon any subject requiring their vote and have not designated a Voting Representative, their vote shall not be considered, as provided above.

Section 4. Voting; Proxies. With the exception of voting to elect Directors, votes may be cast by Members in person or by limited proxy. All limited proxies shall be in writing, dated, signed by the Member entitled to vote, shall state the date, time and place of the meeting for which it is to be used, shall be filed with the Secretary of the Association prior to, or at, the meeting at which they are to be used, and shall only be effective for the specific meeting for which originally given and any lawfully adjourned meetings thereof. In no event shall any proxy be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the person executing it. Holders of proxies need not be Owners. The Board of Directors, may, in its discretion, prescribe a form for written proxies.

Section 5. Majority Vote. The acts approved by a majority of the Members shall be binding upon all Owners for all purposes, except where otherwise provided by law, the Declaration, the Articles and these Bylaws. As used in these Bylaws, the Articles or the Declaration, the term "majority of the Members" shall mean a majority of the votes of Members. Similarly, if some greater percentage of Members is required herein or in the Declaration or the Articles, it shall mean such greater percentage of the votes of Members and not of the Members themselves.

ARTICLE III

ANNUAL AND SPECIAL MEETINGS OF MEMBERSHIP; PROVISO

Section 1. Annual Meeting. The Annual Members Meeting of the Association shall be held between January 2 and April 30 of each year on a date and at a time and place set by the Board of Directors. The purpose of the meeting shall be, without limitation, to elect Directors and to transact any other business authorized to be transacted by the Members, or as stated in the notice of the meeting sent to Members in advance thereof. Notwithstanding anything to the contrary contained herein, until control of the Association is turned over as provided in Article XII of the Declaration, all Directors shall be appointed by the Declarant.

Section 2. Special Meetings. Special Members' Meetings shall be held at such places as provided herein for annual meetings, and may be called by the President or by a majority of the Board of Directors of the Association, and must be called by the President or Secretary upon receipt of a written request from a majority of the Members of the Association. The business conducted at a special meeting shall be limited to that stated in the notice of the meeting.

Section 3. Notice of Meeting; Waiver of Notice. Notice of all Members' meetings, regular or special, shall be given by the President, Vice President or Secretary of the Association, or in the absence of such Officers, by any other Officer of the Association to each Member and Voting Representative at their address as the same is on file with the Association from time to time, unless such notice is waived in writing. Such notice will be written and will state the time, place and object for which the meeting is called. Such notice shall be given or mailed to each Member and Voting Representative not less than ten (10) days nor more than sixty (60) days prior to the date set for such meeting. If hand delivered, confirmation of delivery to the Member and Voting Representative shall be signed by the person delivering such notice. Unless a Member or Voting Representative waives in writing the right to receive notice of the annual meeting by mail, the notice of the annual meeting shall be sent by mail to each Member and Voting Representative at their post office address as it appears on the records of the Association and the post office certificate of mailing shall be retained as proof of such mailing. Notice of a special meeting, if mailed, shall be deemed to be properly given when deposited in the United States mail, first class, postage prepaid, and addressed to the Voting Representative or Member, as the case may be, at his post office address as it appears

on the records of the Association. Proof of such mailing shall be given by the affidavit of the person giving the notice.

Section 4. Adjourned Meetings. If any Members' meeting cannot be convened because a quorum is not present, the Members who are present, may adjourn the meeting from time to time until a quorum is present, provided notice of the newly scheduled meeting is given in the manner required for the giving of notice of a meeting. Except as required above, proxies given for the adjourned meeting shall be valid for the newly scheduled meeting unless revoked for reasons other than the new date of the meeting.

Section 5. Chairman. Until the Declarant has turned over control of the Association according to the provisions of Article XII of the Declaration, the President or, in his absence, a Vice President shall preside at Members' meetings, as designated by the Declarant. After the Declarant has turned over control of the Association, the President or, in his absence, a Vice President shall preside at Members' meetings. In the absence of both such officers the Board of Directors shall select a Chairman.

Section 6. Order of Business. The order of business at Annual Members' Meetings and, as far as practical, at any other Members' meetings, shall be:

- (a) Call to order by President or Chairman;
- (b) Appointment of Chairman of the meeting;
- (c) Calling of the roll and certifying of proxies;
- (d) Proof of notice of waiver of notice;
- (e) Reading of minutes;
- (f) Reports of Officers;
- (g) Reports of Committees;
- (h) Appointment by Chairman of Inspectors of Election;
- (i) Determination of number of Directors to be elected;
- (j) Election of Directors; subject, however, to all provisions of these By-Laws, the Articles and the Declaration;
- (k) Unfinished business;
- (l) New business;
- (m) Adjournment

In the order of business, matters (h), (i), and (j) shall appear on the agenda only after turnover of control of the Association as provided in Article XII of the Declaration.

Section 7. Minutes of Meetings. The minutes of all meetings of Members shall be kept in a book available for inspection by Members or their authorized representatives and Board members at any reasonable time at the principal office of the Association, where copies may be purchased at a reasonable cost. The Association shall retain these minutes for at least seven (7) years.

Section 8. Action Without A Meeting or Vote. Anything to the contrary herein notwithstanding, to the extent lawful, any action required to be taken at any Annual or Special meeting of Members, or any action which may be taken at any Annual or Special meeting of such Members, may be taken without a meeting, without prior notice and without a vote if a consent in writing, setting forth the action so taken, shall be signed by the Members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting of Members of which a quorum of Members (or authorized persons) entitled to vote thereon were present and voted. Within ten (10) days after obtaining such authorization by written consent, notice must be given to Members who have not consented in writing. The notice shall fairly summarize the material features of the authorized action.

Section 9. Waiver of Notice. Notwithstanding anything to the contrary contained in the Articles, Declaration or these Bylaws, notice of any regular or special meeting of the Members of the Association may be waived by any Member and Voting Representative before, during or after any such meeting, which waiver shall be in writing and shall be deemed to be that Member's and Voting Representative's receipt of notice of such meeting.

ARTICLE IV

BOARD OF DIRECTORS

Section 1. Management of Association. The affairs of the Association shall be governed by a BOARD OF DIRECTORS, hereinafter sometimes referred to as the "Board."

Section 2. Board of Directors.

A. The Board of Directors shall consist of at least three (3) but no more than nine (9) Directors. Directors need not be Owners. The initial Board of Directors shall contain three (3) Directors designated by the Declarant. The Declarant may increase or decrease the number of Directors serving on the Board, in the Declarant's sole discretion, prior to transfer of control of the Board as more particularly described in Section 3 hereinbelow.

B. The Declarant shall have the absolute right at any time in its sole discretion, to remove any member or members of the Board designated by the Declarant and replace any such person or persons with another person or other persons to serve on said Board. Removal and replacement of any person or persons designated by Declarant to serve on the Board shall be made by written instrument delivered to any Officer of the Association, which instrument

shall specify the name or names of the person or persons to be removed, and the name or names of the person or persons designated as successor or successors to the person so removed from said Board. The removal of any Director and designation of as successor shall be effective immediately upon delivery of such written instrument by the Declarant to any Officer of the Association.

Section 3. Election of Directors. Election of Directors, other than those designated by the Declarant shall be conducted in the following manner:

A. Election of Directors shall be held at the Annual Meeting of the Association except in the event of a vacancy created which shall be filled pursuant to Paragraphs E. and F. of this Section.

B. The first Board shall consist of three (3) persons designated by the Declarant which number of Directors may be increased to no more than nine (9) Directors and shall serve until the first Annual Meeting following the later of: (i) December 31, 2020; (ii) when neither the Declarant, or any of its designees owns any Lot, Unit or other real property within the Community; or (iii) until such earlier date as is determined by the Declarant, at the Declarant's sole discretion. Such date shall be referred to as the "Turnover Date". At the first Annual Meeting following the Turnover Date, Members other than the Declarant shall elect one-third (1/3) of the members of the Board of Directors in the manner set forth in Paragraph D. of this Section.

C. At least thirty (30) days prior to the Turnover Date, a Nominating Committee shall be chosen by the Board of Directors. At the time of the Board's selection of the Nominating Committee, the Board of Directors shall designate that all Director seats shall be subject to election at the first Annual Meeting following the Turnover Date. Additionally, the Board of Directors shall designate which seats at the first election following Turnover shall be elected for the staggered terms of one (1), two (2) and three (3) years. Directors elected at the first Annual Meeting shall serve staggered terms to allow for the election of one (1) new Director at each subsequent Annual Meeting following the first Annual Meeting. The Nominating Committee prior to the Annual Meeting shall make nominations for the election of Member elected Directors and additional nominations may be taken from the floor at the Annual Meeting. A Member may nominate himself/herself as a candidate for the Board at the Annual Meeting. There shall be no cumulative voting. The election of each director shall require a plurality of votes cast. Each Member is entitled to cast their vote or votes for each as many nominees as there are vacancies to be filled.

D. Upon the Declarant transferring control of the Association, as provided in Article XII of the Declaration, Members other than the Declarant shall elect all of the Directors of the Association, in accordance with this Section. Those Directors elected by the Members at the first Annual Meeting following the Turnover Date shall be elected for staggered terms of one (1), two (2) and three (3) years. At each Annual Meeting subsequent to the first Annual Meeting following the Turnover Date, the Nominating Committee shall present nominations for one (1) new Director. As of the second Annual meeting and

thereafter, Directors shall be elected to serve for a term of three (3) years. Any increase or decrease in the number of Directors serving on the Board after the Turnover date shall require the recording of an amendment to these Bylaws duly adopted pursuant to the provisions of Article IX of these Bylaws.

E. At anytime, after the Turnover Date and the election of Directors by the Members at the first Annual Meeting, at any duly convened regular or special meeting of Members at which a quorum is present, any one or more of the Directors elected by Members may be removed, with or without cause, by the affirmative vote of Members casting not less than a majority of the total votes of the membership of the Association. A successor may then and there be elected to fill the vacancy created. Should the Members fail to elect a successor, the Board may fill the vacancy in the manner provide below.

F. If the office of any Director becomes vacant by reason of death, resignation, retirement, disqualification, removal from office or otherwise, a majority of the remaining Directors, though less than a quorum, shall choose a successor who shall hold office for the balance of the unexpired term of office he was chosen to fill. The election held for the purpose of filling said vacancy may be held at any regular or special meeting of the Board.

G. Any Director may resign at any time by sending a written notice of such resignation to the office of the Association, addressed to the President or Secretary. Unless otherwise specified therein, such resignation shall take effect upon receipt thereof by the Secretary. All of these regulations are self-operating and shall become effective immediately upon the happening of the event or the passage of the time provided for herein.

Section 4. Organizational Meeting. The organizational meeting of a newly elected Board shall be held within ten (10) days of their election, at such time and at such place as shall be fixed by the Directors at the meeting at which they were elected, and no notice of the organizational meeting shall be necessary.

Section 5. Regular Meetings. Regular meetings of the Board of Directors may be held at any place or places within Indian River County, Florida on such days and at such hours as the Board of Directors may appoint or designate by resolution.

Section 6. Special Meetings. Special meetings of the Board of Directors may be called at any time by the President, or by any three (3) members of the Board, or one-third (1/3) of the Board, whichever is greater and may be held at any time and at any place or places within Indian River County, Florida.

Section 7. Notice of Meetings. Notice of each regular or special meeting of the Board of Directors or any committee of the Association, stating the time, place and purpose or purposes thereof, shall be given by or on behalf of the President, or on behalf of the Secretary, or by or on behalf of two (2) members of the Board, to each member of the Board or in the case of a committee, to each member of the committee by that committee chairman, not less than forty-eight (48) hours prior to the scheduled date of the special meeting by mail, telecopier or overnight courier. Notice of Board meetings and committee meetings shall be

posted in a conspicuous place on the Association property at least forty-eight (48) hours in advance, except in an emergency. Meetings of the Board of Directors and all committees shall be open to all Members, provided that Members need not be permitted to participate and need not be recognized at any such meeting. Any Director or committee members, as the case may be, may waive notice of any meeting of the Board of Directors or committee meeting for which notice is required to be given pursuant to the terms and provisions of these Bylaws by signing a written Waiver of Notice before, during or after any such meeting of the Board of Directors. Attendance by any Director or committee member at a regular or special meeting shall be deemed to constitute that Director's or committee member's waiver of notice of such meeting. Notice of any Board meeting at which assessments against Lots and Units are to be established shall specifically contain a statement that assessments shall be considered and a statement of the nature of such assessments.

Section 8. Quorum. A quorum at a Directors' meeting shall consist of the Directors entitled to cast a majority of the votes of the entire Board. The acts of the Board approved by a majority of the votes present at a meeting at which a quorum is present shall constitute the acts of the Board except as specifically otherwise provided for in the Articles, these Bylaws or the Declaration.

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

Section 10. Joinder in Meeting By Approval of Minutes or Consent. The joinder or consent of a Director in the action of a meeting by signing and concurring in the minutes of that meeting, by signing an attendance list if written minutes are not available, or by executing a consent to a proposal, shall constitute the presence of that Director for the purpose of determining a quorum and/or voting on a proposal.

Section 11. Presiding Officer. The presiding officer of Directors Meetings shall be the President or in his absence, a Vice President. In the absence of the presiding officer, the Directors present shall designate one of their number to preside.

Section 12. Order of Business. The order of business at Directors' meetings shall be:

- (a) Calling of roll;
- (b) Proof of due notice of meeting;
- (c) Reading and disposal of any unapproved minutes;
- (d) Reports of Officers and committees;
- (e) Election of Officers;

- (f) Unfinished business;
- (g) New business;
- (h) Adjournment.

Section 13. Minutes of Meetings. The minutes of all meetings of the Board of Directors shall be kept in a book available for inspection by Owners, Members or their authorized representative, and Board members at any reasonable time at the principal office of the Association where copies may be purchased at a reasonable cost. The Association shall retain these minutes for at least seven (7) years.

Section 14. Compensation. Directors' fees, if any, shall be determined by the Members of the Association. Directors shall be entitled to receive reimbursement for all travel and reasonable out-of-pocket expense incurred in attending regularly called Directors' meetings. Such reimbursement must be approved in advance by the Board. Nothing herein contained shall be construed to preclude a Director from serving the Association in any other capacity and receiving compensation therefor. The compensation of all employees of the Association shall be fixed by the Directors.

Section 15. Powers and Duties. All of the powers and duties of the Association shall be exercised by the Board, including those existing under the common law and statutes, the Articles, these Bylaws and the Declaration. Any or all of such powers and duties may be delegated by the Board, in its sole discretion to the Executive Director, President, or other Officer of the Association. Such powers shall include, without limiting the generality of the foregoing, the following:

A. To make, levy and collect Assessments against Members and Members' Lots and Units to defray the costs of maintenance of Common Areas and to use the proceeds of said Assessments in the exercise of the powers and duties granted to the Association;

B. The maintenance, repair, replacement, operation, improvement and management of the Common Areas wherever the same is required to be done and accomplished by the Association for benefit of its Members;

C. The repairs, additions, reconstruction and improvements to, or alterations of, the Common Areas and repairs to and restoration of the Common Areas in accordance with the provisions of the Declaration after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings or otherwise;

D. To make and amend Rules and Regulations and Bylaws governing the use of the Common Areas so long as such Rules and Regulations or amendments thereto do not conflict with the rights, privileges, restrictions and limitations which may be placed upon the use of such property under the terms of the Articles and Declaration;

E. To acquire, operate, lease, manage, and otherwise trade and deal with property, real and personal, including Lots and Units and as may be necessary or convenient in the operation and management of the Common Areas and in accomplishing the purposes set forth in the Declaration;

F. To exercise and enforce by legal means the provisions of the Articles and By-Laws, the Declaration and the Rules and Regulations hereinafter promulgated governing use of the Common Areas and all powers, incidental thereto;

G. To pay all taxes and assessments which are liens against any part of the Property other than Lots, Units and the Club Facilities and to assess the same against the Members and their respective Lots and Units subject to such liens;

H. To carry insurance for the protection of the Members and the Association against casualty and liability, as deemed necessary by the Board of Directors;

I. To pay all costs of power, water, sewer and other utility services rendered to the Association and not billed to Owners of the separate Lots or Units;

J. To employ personnel and contract for services for reasonable compensation to perform the services required for proper administration of the purposes of the Association, including, but not limited to, accountants, attorneys, contractors, and other professionals;

K. The Board may enter into a contract with any firm, person or corporation, in contracting for the management, maintenance and repair of the Common Areas and such other property for which the Association has responsibility. The Board is authorized to delegate to any such management firm or manager any or all of the powers or duties of the Association. Those so delegated shall be specified in any such agreement between the parties;

L. To enforce obligations of the Owners, taking such other actions as shall be deemed necessary and proper for the sound management of the Association;

M. To organize corporations and appoint persons to act as designees of the Association in acquiring title to or leasing Lots, Units or other property;

N. To levy fines against Owners for violations of the Rules and Regulations established by the Association to govern the conduct of such Owners;

O. To maintain bank accounts on behalf of the Association and designate the signatories required there for;

P. To impose a lawful fee in connection with the approval of plans and specifications submitted to the ARB pursuant to the provisions of the Declaration;

Q. To enter into and upon Lots and Units when necessary and with as little inconvenience to the Owner as possible in connection with such maintenance, care and preservation;

R. To collect delinquent Assessments by suit or otherwise, to abate nuisances, and to enjoin or seek damages from the Owners for violations of these Bylaws, the Articles, the Rules and Regulations and the terms and conditions of the Declaration.

Section 16. Proviso. Notwithstanding anything contained to the contrary herein, the Directors shall not have the right or authority to do any act or take any action wherein the same would limit, modify or abridge the rights, privileges and immunities of the Declarant, Declarant's Affiliates, their designees, successors, and assigns, as set forth in the Declaration, or the Articles or these Bylaws.

Section 17. Executive Committee; Other Committees. The Board may, by resolution passed by a majority of the entire Board, designate an Executive Committee to consist of two or more of the Directors of the Association which, to the extent provided in said resolution, shall have and may exercise the powers of the Board in the management of the business and affairs of the Association, and may exercise such other powers as the Board expressly authorizes in writing. The Executive Committee shall keep regular minutes of its proceedings and report the same to the Board when required. The Board may appoint an Executive Director who may serve at the pleasure of the Board, shall be Chairman of the Executive Committee and shall perform duties expressly authorized by the Board of Directors in writing.

The Board may, by resolution also create other committees and appoint persons to such committees and invest in such committees such powers and responsibilities as the Board shall deem advisable.

The Executive Committee or any other committee created by the Board shall not have the power (a) to determine the General Expenses required for the affairs of the Association, (b) to determine the Assessments payable by the Owners to meet the General Expenses of the Association, (c) to adopt or amend any Rules and Regulations relating to operation and use of the Common Areas, or (d) take any action which would substantially affect the property rights of any Owner with regard to his Lot or Unit with the exception of any covenant enforcement committee which shall have all those rights and powers conferred upon it by Florida law, the Declaration, Articles or Bylaws.

Section 18. Architectural Review Board. The Board does hereby recognize the establishment and continued functions of the Architectural Review Board (ARB) of the Association in accordance with Article IX of the Declaration. The ARB shall act in conjunction with the Board of Directors and shall be governed by said Article IX of the Declaration in the performance of its functions and duties.

ARTICLE V

OFFICERS

Section 1. Generally. The officers of the Association shall be a President, one or more Vice-presidents, a Secretary, a Treasurer, and one or more Assistant Secretaries, all of whom shall be elected annually by the Board and who may be peremptorily removed by a

majority vote of the Directors at any meeting. The Board may from time to time elect such other Officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association. Officers need not be Owners. The initial officers of the Association shall be those individuals named in the Articles of Incorporation who shall serve until the first Annual Meeting of the Members of the Association.

Section 2. President. The President shall be the Chief Executive Officer of the Association. He (she) shall have all of the powers and duties which are usually vested in the office of President of the Association, including, but not limited to, the power to appoint committees from among the Members from time to time, as he (she) may in his (her) discretion determine appropriate to assist in the conduct of the affairs of the Association. The President shall be a member of the Board and act as an ex-officio member of all committees.

Section 3. Vice Presidents. The Vice-Presidents shall, in the absence or disability of the President, exercise the powers and perform the duties of the President. He (she) or they shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Directors or the President.

Section 4. Treasurer. The Treasurer shall have the power and duty to receive such monies as shall be paid into the Association and disburse funds as may be ordered by Board of Directors, taking proper vouchers for such disbursements. He (she) shall be custodian of all funds, security and evidence of indebtedness of the Association. He (she) shall keep the assessment rolls and accounts of the Members and keep the books of the Association in accordance with good accounting practice, which together with substantiating papers, shall be made available to the Board of Directors for examination at reasonable times. He (she) shall prepare and distribute to all of the members of the Board of Directors, whenever requested, a summary of the financial transactions and condition of the Association and make a full and accurate report of financial matters to the Members of the Association at the Annual Meeting and shall make all reports required by law; and may have the assistance of an accountant or auditor, who shall be employed by the Board of Directors.

Section 5. Secretary. The Secretary of the Association shall keep the minutes of all proceedings of the Directors and the Members. He (she) shall attend to giving and serving of all notices to the Members and Directors, and such other notices as required by law. He (she) shall have custody of the seal of the Association and affix the same to instruments when duly signed. Additionally, the Secretary shall attend to all correspondence on behalf of the Association, the Board of Directors and the President and perform such other duties as may be assigned by the Board of Directors or by the President. In the event the Association enters into a management agreement, it shall be proper to delegate such of the Secretary's and/or Treasurer's functions to the management agent as is deemed appropriate by the Board of Directors.

Section 6. Compensation. Officers' fees, if any, shall be determined by the Board of Directors of the Association. Nothing herein contained shall be construed to preclude an Officer from serving the Association in any other capacity and receiving compensation

therefor. Such compensation, if any, shall include all actual and proper out of pocket expenses, relating to the proper discharge of each Officer's respective duties.

Section 7. Resignations. Any Officer may resign his post at any time by written resignation, delivered to the President or Secretary, which shall take effect upon its receipt unless a later date is specified in the resignation, in which event the resignation shall be effective from such date unless withdrawn. The acceptance of a resignation shall not be required to make it effective.

Section 8. Appointive Officers. The Board of Directors may appoint Assistant Vice-Presidents, Assistant Secretaries, Assistant Treasurers, and such other Officers as the Board of Directors deems necessary to administer the business and affairs of the Association.

ARTICLE VI

FISCAL MANAGEMENT; ASSESSMENTS; LIENS

Section 1. Fiscal Management. The provisions for fiscal management of the Association in the Declaration, including, but not limited to, establishment of budgets, creation of assessments, obligations of Owners, continuing liens against Lots and Units, and remedies of the Association shall be dispositive and controlling.

ARTICLE VII

ROSTER OF UNIT OWNERS

Each Owner shall file with the Association a copy of the deed or other document showing his ownership. The Association shall maintain such information. The Association may rely upon the accuracy of such information for all purposes until notified in writing of changes therein as provided above.

ARTICLE VIII

PARLIAMENTARY RULES; ROBERTS RULES OF ORDER

Parliamentary Rules, Roberts Rules of Order (latest edition) shall govern the conduct of the Association proceedings when not in conflict with the Declaration, the Articles, these Bylaws or with the Statutes of the State of Florida.

ARTICLE IX

AMENDMENTS TO BYLAWS

Section 1. Amendment Procedures.

A. Resolution. A resolution adopting a proposed amendment may be proposed by either the Board of Directors of the Association acting upon a vote of the majority of the Directors, or by a majority of the Members of the Association, whether meeting as Members or by instrument in writing signed by them.

B. Notice. Upon any amendment or amendments to the Bylaws being proposed by the Board of Directors or Members, such proposed amendment or amendments shall be transmitted to the President of the Association or other Officer of the Association in the absence of the President, who shall thereupon call a special meeting of the Members of the Association and it shall be the duty of the Secretary to give each Member written or printed notice of such special meeting, stating the time and place thereof, and reciting the proposed amendment or amendments in reasonably detailed form, which notice shall be mailed not less than ten (10) days before the date set for such special meeting. Such notice shall also be posted in a conspicuous place on the Common Areas (if possible to do so in an enclosed area) not less than ten (10) days prior to the date set for such meeting. If mailed, such notice shall be deemed to be properly given when deposited in the United States Mail, addressed to the Member at his post office address as it appears on the records of the Association, the postage thereon being prepaid. Any Member may, by written waiver of notice signed by such Member, waive such notice, and such waiver, when filed in the record of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such Member.

C. Approval And Certificate. At such meeting, the Amendment or Amendments proposed must be approved by an affirmative vote of two-thirds (2/3) of the Members for such amendment or amendments to become effective. Thereupon, such amendment or amendments to the Bylaws shall be transcribed and certified by the President and Secretary of the Association as having been duly adopted and the original or executed copy of such amendment or amendments so certified and executed with the same formalities as a deed shall be recorded in the Public Records of Indian River County within ten (10) days from the date on which the same became effective, such amendment or amendments to specifically refer to the recording data identifying the Declaration. Thereafter, a copy of said amendment or amendments in the form of which the same were placed of record by the Officers of the Association shall be delivered to all Owners, but delivery of a copy thereof shall not be a condition precedent to the effectiveness of such amendment or amendments.

Section 2. Declarant Amendments. In addition to the manner herein provided for the amendment of these Bylaws, the provisions of these Bylaws may be amended, changed or added to at any time and from time to time (including, without limitation, in order to meet any requirements, standards or guidelines of FNMA, FHLMC or FHA as to all or any portion of

the Property) upon the execution and recordation of an instrument executed by the Declarant alone, for so long as it holds title to any Lot or Unit affected by these Bylaws.

Section 3. Declarant Rights. Notwithstanding anything to the contrary contained herein, no amendment of these Bylaws which shall abridge, modify, eliminate, prejudice, limit, amend or alter the rights of the Declarant, Declarant's Affiliates, their designees, successors, and assigns, as set forth in the Declaration may be adopted or become effective without the prior written consent of the Declarant. No amendment shall be made that is in conflict with the Articles or Declaration. Notwithstanding anything to the contrary contained herein, until Declarant has transferred control of the Association as provided in Article XII of the Declaration, no amendment to these Bylaws shall be effective unless the Declarant shall consent to and join in the execution of the amendment.

ARTICLE X

INDEMNIFICATION

The Directors and Officers of the Association shall be indemnified by the Association pursuant to the indemnification provision of the Articles of Incorporation. For purposes herein, Article XIII of the Articles of Incorporation of THE FALLS AT GRAND HARBOR PROPERTY OWNERS ASSOCIATION, INC. is hereby incorporated by reference and expressly made a part hereof.

ARTICLE XI

RULES AND REGULATIONS

Section 1. As to Common Areas. The Board of Directors may, from time to time, adopt or amend previously adopted Rules and Regulations governing the details of the operation, use, maintenance, management and control of the Common Areas and any facilities or services made available to Owners.

Section 2. Lots and Units. The Board of Directors may, from time to time, adopt or amend previously adopted Rules and Regulations governing and restricting the use and maintenance of Lots and Units provided, however, that copies of such Rules and Regulations are furnished to each Owner prior to the time the same become effective.

Section 3. Declarant Rights. At no time may any rule or regulation be adopted which would prejudice the rights reserved to the Declarant.

ARTICLE XII

CONSTRUCTION

Whenever the masculine or singular form of the pronoun is used in these Bylaws, it shall be construed to mean the masculine, feminine or neuter, singular or plural, wherever the context so requires.

Should any of the covenants herein imposed be void or be or become unenforceable at law or in equity, the remaining provisions of this instrument shall, nevertheless, be and remain in full force and effect.

ARTICLE XIII

CONFLICT

If any irreconcilable conflict should exist, or hereafter arise, with respect to the interpretation of these Bylaws and the Declaration, the provisions of the Declaration shall prevail; in the event of any irreconcilable conflict between the Articles of Incorporation and these Bylaws, the Articles shall prevail.

ARTICLE XIV

CAPTIONS

The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these Bylaws or the intent of any provision hereof.

ARTICLE XV

SELF DEALING; VALIDITY OF AGREEMENT
AND WAIVER OF CLAIMS

Section 1. Self Dealing. No contract, agreement or undertaking of any sort between or among the Association, Directors, Officers, Members or the Declarant shall be invalidated or affected by reason that any of them hold the same or similar positions with another condominium, homeowners or property owners association within the Property or that they are financially interested in the transaction or that they are employed by the Declarant or Declarant's Affiliates or designees.

Section 2. Validity of Agreement. No contract, agreement or undertaking of any sort between the Association and any entity or individual shall be invalidated or affected by reason that the Association, its Directors, Officers, Members, the Declarant, its agents or employees hold a financial interest in or with the individual or entity.

Section 3. Waiver of Claims. By acquisition of a Lot or Unit, or any interest therein, within the Property, each and every individual or entity, of whatsoever kind or nature, thereby waives any claim for damages or other relief grounded in tort, contract, equity or otherwise arising out of the negotiation, execution, performance and enforcement of contracts, agreements or undertakings described above, that may accrue at the time of purchase or thereafter against the Declarant, the Association, and their respective Directors, Officers, agents, employees and Members.

ARTICLE XVI

COMPLIANCE AND ENFORCEMENT

Section 1. Compliance by Owners. Every Owner and his/its tenants, guests, invitees, officers, employees, contractors, subcontractors and agents shall comply with any and all rules and regulations adopted by the Board of Directors of the Association as contemplated herein as well as the covenants, conditions and restrictions of the Declaration, as they may be amended from time to time.

Section 2. Enforcement. Failure to comply with the Declaration, these Bylaws, and/or any of such rules or regulations shall be grounds for immediate action by the Association which may include, without limitation, an action to recover sums due for damages, injunctive relief or any combination thereof. The Association shall also have the right to suspend rights to use the Common Areas as specified herein.

Section 3. Fines. In addition to all other remedies, and to the maximum extent lawful, in the sole discretion of the Covenant Enforcement Committee (as hereinafter defined) of the Association, a fine or fines may be imposed upon an Owner for failure of an Owner, or any of the other parties described hereinabove, to comply with their obligations under the Declaration, these Bylaws or with any rule or regulation of the Association, provided the following procedures are adhered to:

A. Notice: The Association shall notify the Owner of the infraction or infractions. Included in the notice shall be the date and time of a meeting of a Covenant Enforcement Committee of at least three (3) members appointed by the Board who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother or sister of an officer, director or employee of the Association at which time the Owner shall present reasons why fines should not be imposed. At least fourteen (14) days written notice of such meeting shall be given;

B. Hearing: The non-compliance shall be presented to the Covenant Enforcement Committee after which the Covenant Enforcement Committee shall hear reasons why a fine should not be imposed. A written decision of the Covenant Enforcement Committee shall be mailed to the Owner by not later than ten (10) days after the Covenant Enforcement Committee meeting. The Owner shall have a right to be represented by counsel and to cross-examine witnesses, although the proceeding shall not be subject to the Florida Rules of Evidence and Florida Rules of Civil Procedure;

C. Amounts of Fines: The Board of Directors, shall from time to time prescribe the amounts of fines in their reasonable discretion and shall establish a schedule of fines for first non-compliance or violation; second non-compliance or violation; and third and subsequent non-compliances or violations, which schedule shall be part of the Rules and Regulations of the Association as the same may be amended by the Board of Directors from time to time.

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

E. Collection of Fines: The Association may take any available legal or equitable action necessary to collect fines;

F. Application of Fines: All monies received from fines shall only be expended for the improvement or beautification of Common Areas as directed the Board of Directors; and

G. Non-exclusive Remedy: Fines as provided herein shall not be construed to be an exclusive remedy of the Association, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled.

The foregoing were adopted as the Bylaws of THE FALLS AT GRAND HARBOR PROPERTY OWNERS ASSOCIATION, INC., a Florida not-for-profit corporation established under the laws of the State of Florida, at the first meeting of the Board of Directors on the 24th day of June, 2005.

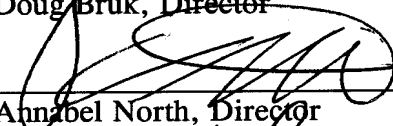
Adopted this 24th day of June, 2005 by the undersigned Board of Directors of THE FALLS AT GRAND HARBOR PROPERTY OWNERS ASSOCIATION, INC., a Florida not-for-profit corporation.

THE FALLS AT GRAND HARBOR PROPERTY OWNERS ASSOCIATION, INC.

(Corporate Seal)



Doug Bruk, Director



Annabel North, Director

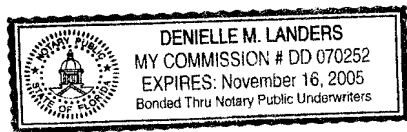


Jennifer Grohol, Director

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The forgoing instrument was acknowledged before me this 24 day of June, 2005, by Doug Bruk as a Director of the Board of Directors of THE FALLS AT GRAND HARBOR PROPERTY OWNERS ASSOCIATION, INC., a Florida not-for-profit corporation, on behalf of such corporation, and who is personally known to me.

(Notary Seal)

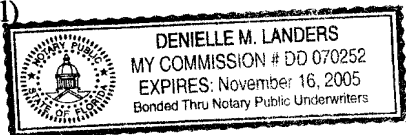


[Signature]
Notary Public, State of Florida
My commission expires:

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The forgoing instrument was acknowledged before me this 24 day of June, 2005, by Annabel North as a Director of the Board of Directors of THE FALLS AT GRAND HARBOR PROPERTY OWNERS ASSOCIATION, INC., a Florida not-for-profit corporation, on behalf of such corporation, and who is personally known to me.

(Notary Seal)

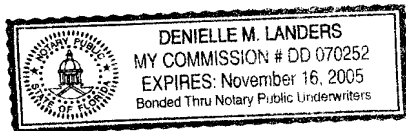


[Signature]
Notary Public, State of Florida
My commission expires:

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The forgoing instrument was acknowledged before me this 24 day of June, 2005, by Jennifer Grohol as a Director of the Board of Directors of THE FALLS AT GRAND HARBOR PROPERTY OWNERS ASSOCIATION, INC., a Florida not-for-profit corporation, on behalf of such corporation, and who is personally known to me.

(Notary Seal)



[Signature]
Notary Public, State of Florida
My commission expires: