

**This instrument prepared by
And return to:**

**Baker & Hostetler LLP
200 South Orange Avenue, Suite 2300
P.O. Box 112
Orlando, Florida 32802-0112
Attn: William C. Guthrie, Esq.**

**DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS FOR THE CONSERVATORY**

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**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR THE CONSERVATORY**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE CONSERVATORY ("CC&Rs", as further defined below) is made this 28th day of March, 2005 by Ginn-LA Hammock Beach Ltd., LLLP, a Georgia limited liability limited partnership ("Declarant", as further defined below), whose post office address is One Hammock Beach Parkway, Palm Coast, Florida, 32137.

WHEREAS, Declarant is the owner in fee simple of the real property more particularly described on Exhibit "A" attached hereto and made a part hereof (the "Committed Property", as further defined below); and

WHEREAS, Declarant desires to develop a planned community to be known as "The Conservatory" (as hereinafter defined); and

WHEREAS, in order to develop and maintain the Committed Property as a planned residential community to be known as The Conservatory and to preserve the values and amenities of such community, it is necessary to declare, commit and subject the Committed Property and the improvements now or hereafter constructed thereon to certain land use covenants, restrictions, reservations, regulations, burdens, liens, and easements; to facilitate the maintenance of surface water, stormwater drainage and retention areas and improvements; to provide for the ownership, operation and maintenance of the Utility Systems (as hereinafter defined); and to delegate and assign to the Conservatory Property Owners' Association, Inc., a Florida corporation not for profit ("Association", as further defined below), certain powers and duties of ownership, administration, operation, maintenance and enforcement; and

NOW, THEREFORE, in consideration of the premises and covenants herein contained, Declarant hereby declares that the Committed Property shall be owned, held, used, transferred, sold, conveyed, demised and occupied subject to the covenants, restrictions, easements, reservations, regulations, burdens and liens hereinafter set forth, all of which shall run with the Committed Property and any part thereof and which shall be binding upon all parties having any right, title or interest in the Committed Property or any part thereof, their heirs, successors and assigns.

ARTICLE I

DEFINITIONS

The capitalized terms used in these CC&Rs shall be defined as set forth herein unless expressly provided otherwise.

Section 1. "ADDITIONAL PLAT" shall mean the plat of any Additional Property provided a Supplemental Declaration for such Additional Property is recorded amongst the Public Records

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of the County in accordance with these CC&Rs. "Additional Plat" shall also mean the replat of all or any portion of the Plat or any other plat of all or any portion of the Committed Property.

Section 2. "ADDITIONAL PROPERTY" shall mean any real property (other than the Committed Property) that may be submitted by Declarant to the terms and provisions of these CC&Rs by a Supplemental Declaration which shall be executed by the owner of the Additional Property and need not be joined in by any other person or Owner. No portion of any Additional Property shall be encumbered by these CC&Rs unless and until such property is added by a Supplemental Declaration by the fee owner thereof. In the event any Additional Property becomes encumbered by these CC&Rs, then, and only then in such event, the term "Committed Property" as used herein shall also include the Additional Property.

Section 3. "AMENDMENT(S)" shall mean any and all amendments to these CC&Rs, all of which shall be consecutively numbered beginning with the "First Amendment to the Declaration of Covenants, Conditions, and Restrictions for The Conservatory" and each of which shall be properly adopted pursuant to the terms of the Conservatory Documents and recorded in the Public Records of the County; provided, however, the failure to so consecutively number such amendments shall not impair their validity hereunder and such amendments to the extent not otherwise numbered will be deemed to have been numbered in chronological order of their appearance in the Public Records of the County. "Amendment(s)" shall also mean any and all amendments to any Supplemental Declaration, as recorded in the Public Records of the County.

Section 4. "ARCHITECTURAL CONTROL BOARD" or "ACB" shall mean the committee created pursuant to Article VIII hereof.

Section 5. "ARTICLES" shall mean the Articles of Incorporation of the Association which have been filed in the Office of the Secretary of State of the State of Florida, an initial copy of which is attached hereto as Exhibit "B" and incorporated herein by this reference, as such Articles may be amended from time to time.

Section 6. "ASSESSMENT" shall mean assessments for which all Owners are obligated to the Association and includes "Individual Lot Assessments", and "Special Assessments" (as such terms are defined herein) and any and all other assessments which are levied by the Association in accordance with the Conservatory Documents.

Section 7. "ASSOCIATION" shall mean and refer to THE CONSERVATORY PROPERTY OWNERS' ASSOCIATION, INC., a not-for-profit Florida corporation, its successors and assigns, pursuant to the Articles of Incorporation, filed in the Office of the Secretary of State of the State of Florida, and which Association is responsible for the maintenance, preservation and architectural control of the Committed Property as provided in these CC&Rs.

Section 8. "ASSOCIATION PROPERTY" shall mean and refer to all real and personal property, including easements, which the Association owns, leases, or with respect to which the Association otherwise holds possessory or use rights for the common use, enjoyment and benefit of all of the Owners in accordance with the terms of these CC&Rs. Association Property also includes any property that the Declarant designates as "Association Property" prior to the conveyance of such property to the Association. Notwithstanding anything to the contrary

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contained in these CC&Rs, "Association Property" does not include or refer to the Club Property or any portion of the Club Property.

Section 9. "BOARD" shall mean the governing body of the Association as it is constituted from time to time.

Section 10. "BUILDER" shall mean: (i) a person or entity who in its normal course of business purchases a portion of the Committed Property for the purpose of constructing thereon a residential structure for sale; (ii) a person or entity who in its normal course of business constructs a residential structure on a portion of the Committed Property owned by another; or (iii) a person or entity who acquires a portion of the Committed Property for the purpose of resale to a person engaged in the business of constructing residential structures for sale, and who is so designated by Declarant.

Section 11. "BYLAWS" shall mean the Bylaws of the Association, which have been or will be adopted by the Board, an initial copy of which is attached hereto as Exhibit "C" and incorporated herein by this reference, as such Bylaws may be amended from time to time.

Section 12. "CC&Rs" shall mean this instrument as it may be amended from time to time, together with any Supplemental Declaration(s) or Amendments thereto, which may be recorded amongst the Public Records in accordance with these CC&Rs.

Section 13. "CITY" shall mean the City of Palm Coast, Florida.

Section 14. "CLUB AT HAMMOCK BEACH" or "CLUB" shall mean those golf courses, tennis courts, country club facilities, and other recreational and social facilities located in Flagler County, Florida, which are owned or operated by Club Property Owner. The Club Property Owner shall have the right, in its sole, absolute, and unfettered discretion, to include, or not include, the Club Property as part of the Club, or to withdraw the Club Property from the Club.

Section 15. "CLUB AT HAMMOCK BEACH PROPERTY" or "CLUB PROPERTY" shall mean all of the real property included within the Committed Property, if any, as may be owned from time to time by the Club Property Owner, together with the golf course, tennis courts, country club facilities, and other recreational and social facilities constructed thereon, if any, that are independently owned and operated by the Club Property Owner, or its successors and assigns. Any of the Committed Property, except Lots, may be designated as "Club Property" by the Declarant in Exhibit "A" to these CC&Rs or in a Supplemental Declaration, and should any Additional Property be subjected to provisions of these CC&Rs, Declarant shall have the right to designate any or all of such property as Club Property. The Club Property is not Association Property.

Section 16. "CLUB PROPERTY OWNER" shall mean the record holder of fee simple title or ground lessee of the Club Property.

Section 17. "COMMITTED PROPERTY" shall mean that certain real property described in Exhibit "A" and such additions thereto as may hereafter be brought within the jurisdiction of these CC&Rs and/or the Association; provided, however, Declarant reserves the right to

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withdraw from the provisions hereof, such portion or portions of the Committed Property as Declarant from time to time elects, upon the execution by Declarant of a Supplemental Declaration.

Section 18. “COMMUNITY-WIDE STANDARD” means the standard of conduct, maintenance, management, operation, use or other activity generally prevailing throughout the Committed Property, which shall never be lower than the standards established by the Board or the ACB for the Committed Property, or lower than the standards of construction and quality required by the ACB for the initial approval and construction of Improvements. Such standard is expected to evolve over time as development progresses and may be more specifically determined by the Board, Declarant, or the ACB; provided, however, the Community-Wide Standard may not be lowered without the written approval of the Declarant.

Section 19. “CONSERVATORY DOCUMENTS” shall mean in the aggregate these CC&Rs, the Articles, the Bylaws, the Plat, the Additional Plat, if any, and all of the instruments and documents referred to therein, including, but not limited to, any Amendment(s) and Supplemental Declaration(s).

Section 20. “COUNTY” shall mean Flagler County, Florida.

Section 21. “DECLARANT” shall mean and refer to Ginn-Hammock Beach Ltd., LLLP, a Georgia limited liability partnership, and any successor or assign thereof to which Ginn-LA Hammock Beach Ltd., LLLP specifically assigns all or part of the rights of Declarant hereunder by an express written assignment, whether recorded in the Public Records of the County or not. The written assignment may give notice as to which rights of Declarant are to be exercised and as to which portion of the Committed Property such rights are to be exercised. In any event, any subsequent Declarant shall not be liable for any default or obligations incurred by any prior Declarant, except as may be expressly assumed by the subsequent Declarant, and any prior Declarant shall not be liable for any subsequent default or obligations incurred by any subsequent Declarant. An Owner shall not, solely by the purchase of a Home and/or Lot, be deemed a successor or assign of Declarant under the Conservatory Documents unless such Owner is specifically so designated as a successor or assign of such rights in the instrument of conveyance or any other instrument executed by Declarant.

Section 22. “DIRECTOR” shall mean a member of the Board.

Section 23. “HOME” shall mean a residential dwelling unit constructed within the Committed Property, which is designed and intended for use and occupancy as a single-family residence.

Section 24. “IMPROVED LOT” shall mean a Lot on which the construction of any Home has been completed and for which Home a certificate of occupancy or equivalent therefor has been issued by the City.

Section 25. “IMPROVED LOT OWNER” shall mean the Owner of an Improved Lot.

Section 26. "IMPROVEMENT" shall mean all structures or artificially created conditions and appurtenances thereto of every type and kind located within the Committed Property, including, without limitation, buildings, walkways, berms, fountains, sprinkler pipes, gatehouses, roads, driveways, fences, retaining walls, underground footers and other foundation supports, stairs, landscaping, hedges, plantings, poles, swings, swimming pools, covered patios, screen enclosures, jogging, bicycling and walking paths, basketball backboards and hoops, signs, site walls, gazebos, benches, mailboxes, decorative street lights and signs.

Section 27. "INDIVIDUAL LOT ASSESSMENTS" shall mean assessments levied against each Improved Lot and Unimproved Lot, as more particularly described in Article VII of these CC&Rs.

Section 28. "INSTITUTIONAL MORTGAGE" shall mean a mortgage held by an Institutional Mortgagee on any property within the Committed Property.

Section 29. "INSTITUTIONAL MORTGAGEE OR INSTITUTIONAL LENDER" shall mean any lending institution owning a first mortgage encumbering any Home or Lot, which owner and holder of said mortgage shall either be a bank, life insurance company, federal or state savings and loan association, real estate or mortgage investment trust, building and loan association, mortgage banking company licensed to do business in the State of Florida, or any subsidiary thereof, licensed or qualified to make mortgage loans in the State of Florida or a national banking association chartered under the laws of the United States of America or any "secondary mortgage market institution," including the Federal National Mortgage Association ("FNMA"), Government National Mortgage Association ("GNMA"), Federal Home Loan Mortgage Corporation ("FHLMC") and such other secondary mortgage market institutions as the Board shall hereafter approve in writing; any and all lenders, and the successors and assigns of such lenders, which have loaned money to Declarant and which hold a mortgage on any portion of the Committed Property securing any such loan; any pension or profit-sharing funds qualified under the Internal Revenue Code; the Veterans Administration, the Federal Housing Administration or the Department of Housing and Urban Development or such other lender as is generally recognized in the community as an institutional lender; or Declarant, its successors and assigns.

Section 30. "INTEREST" shall mean the maximum nonusurious interest rate allowed by applicable law on the subject debt or obligation, and if no such rate is designated by law, then eighteen percent (18%) per annum.

Section 31. "LEGAL FEES" shall mean reasonable fees for attorney and paralegal services incurred in connection with: (i) negotiation and preparation for litigation, whether or not an action is actually begun, through and including all trial and appellate levels and post judgment, bankruptcy, and probate proceedings, and (ii) collection of past due Assessments including, but not limited to, preparation of notices and liens; and shall also include court costs through and including all trial and appellate levels and post-judgment, bankruptcy, and probate proceedings.

Section 32. "LOT" shall mean and refer to any parcel of land within the Committed Property as shown on the Plat or any Additional Plat upon which a Home may be constructed, together with the Improvements thereon, and any portion of the Committed Property that is declared to be a Lot by a Supplemental Declaration and is not subsequently withdrawn from the provisions of these CC&Rs by a Supplemental Declaration. For purposes of Individual Lot Assessments, a Lot is either an Improved Lot or an Unimproved Lot. The Club Property is not a Lot.

Section 33. "MEMBERS" shall mean and refer to all of the Owners who are also members of the Association, as provided herein.

Section 34. "NOTICE AND HEARING" shall mean written notice and a public hearing before a tribunal appointed by the Board at which the Owner concerned shall have an opportunity to be heard in person or by counsel, at Owner's expense, in the manner set forth in Article X herein.

Section 35. "OPERATING EXPENSES" shall mean the expenses for which Owners are liable to the Association as described in these CC&Rs and any other Conservatory Documents and include, but are not limited to, the costs and expenses incurred by the Association in administering, operating, maintaining, financing, or repairing the Association Property or any portion thereof and Improvements thereon and all costs and expenses incurred by the Association in carrying out its powers and duties hereunder or under any other Conservatory Documents, including, without limitation, legal costs and expenses incurred by the Association.

Section 36. "OWNER" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, and includes Declarant for as long as Declarant owns fee simple title to a Lot, but excluding therefrom those having such interest as security for the performance of an obligation.

Section 37. "PLAT(S)" shall mean the Plat of Conservatory at Hammock Beach recorded in Plat Book 34, Pages 76 through 101, inclusive, of the Public Records of the County. In the event an Additional Plat is recorded in the Public Records of the County, then the term "Plat" as used herein shall also mean the Additional Plat.

Section 38. "RULES AND REGULATIONS" shall mean the use restrictions, rules, and regulations governing the use of an activities on the Lots and the Association Property, as they may be amended from time to time. The initial Rules and Regulations are set forth in Exhibit "D," attached hereto and made a part hereof.

Section 39. "SJRWMD" shall mean the St. Johns River Water Management District, a public body existing under Chapter 373, Florida Statutes.

Section 40. "SUPPLEMENTAL DECLARATION" shall mean any instrument executed by Declarant with respect to the Additional Property, if any (provided Declarant is the owner thereof), which, when recorded in the Public Records of the County, shall commit such property to the provisions of these CC&Rs, and shall be the only method of committing such property to the provisions of these CC&Rs. A Supplemental Declaration may also add additional restrictions, declare certain properties to be or not to be Association Property, declare certain

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properties to be or not to be Club Property, or withdraw properties from the Committed Property and the provisions of these CC&Rs. The Association shall join in the execution of any Supplemental Declaration at the request of Declarant but such joinder shall not be required to make any such Supplemental Declaration effective, unless expressly provided herein. The Owners shall not be required to join in the execution of any Supplemental Declaration but shall nevertheless be bound thereby.

Section 41. "SURFACE WATER MANAGEMENT PERMIT" shall mean and refer to Permit Number 4-035-92930-1, and any successor permits, issued by the St. Johns River Water Management District for the construction, operation, and maintenance of the Surface Water and Storm Water Management System on the Committed Property.

Section 42. "SURFACE WATER AND STORM WATER MANAGEMENT SYSTEM" shall mean the drainage system consisting of swales, inlets, culverts, retention ponds, detention ponds, lakes, outfalls, storm drains and the like, and all connecting pipes and easements, which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect quantity and quality of discharges from the system, as permitted pursuant to Chapter 40D, Florida Administrative Code. The Surface Water and Storm Water Management System facilities include, but are not limited to: all inlets, ditches, swales, culverts, water control structures, retention and detention ponds, lakes, floodplain compensation areas, wetlands and any associated buffer areas and wetland mitigation areas, to the extent that any such facilities, areas, or conditions apply to the Committed Property.

Section 43. "TURNOVER DATE" shall mean the date upon which "Class A Members" (as defined in Article V of the Articles), including Declarant, shall assume control of the Association and elect the majority of the Board, as more particularly described in Article V.D.2 of the Articles.

Section 44. "UNIMPROVED LOT" shall mean a Lot on which the construction of a Home has not been completed and for which no certificate of occupancy or equivalent therefor has been issued by the appropriate governmental agency.

Section 45. "UNIMPROVED LOT OWNER" shall mean the Owner of an Unimproved Lot.

Section 46. "UTILITY SYSTEMS" shall mean and refer to any and all property, real and otherwise, utilized to furnish potable water, nonpotable water, sanitary sewer, and reuse water, if so provided, to Club Property Owner, the Owners and residents of the Committed Property and the Association Property. Utility Systems shall include all mechanical and electronic equipment and systems utilized to provide water and sewer services to the Committed Property, including but not limited to piping, lift stations, water treatment plants, sewer treatment plants and spray fields, and reuse facilities; provided, however, Utility Systems shall not include any portion of any system to provide utilities that is located within the boundaries of an individual Lot, from the terminus of the meter(s) for the individual Lot. The Utility System shall stop on each Lot at the exit flow from the meter(s) for such Lot. Notwithstanding anything herein to the contrary, property, equipment, and other systems owned by a private or public utility provider other than SOLICITORS, 59039, 00001, 100788155.14, Conservatory - Declaration of CCRs

Declarant (or Declarant's assignee relative to Declarant's obligations with regard to the Utility System) shall not be considered part of the "Utility Systems." Declarant initially anticipates that the Utility Systems will solely consist of a reuse water system as all other utilities, including, without limitation, potable water, sanitary sewer, electricity, telephone, and cable television will be provided by separate private or public utility providers.

ARTICLE II

DESCRIPTION OF THE CONSERVATORY; ADDITIONS TO AND WITHDRAWALS FROM THE COMMITTED PROPERTY

Section 1. GENERAL PLAN OF DEVELOPMENT.

The Conservatory is the name of the planned residential development planned to be developed by Declarant on the Committed Property. The property initially declared hereunder as the Committed Property is described in Exhibit "A" attached hereto. Declarant plans for the Committed Property to contain three hundred forty (340) single-family homes or other residential unit types as may be approved by the City. However, Declarant has reserved the right to modify its plan of development and to add land to the Committed Property, and, therefore, the number of Lots may change. Declarant's general plan of development further contemplates that such Homes shall be whatever types of structures Declarant may designate. Declarant's general plan of development may also include whatever facilities and amenities Declarant considers in its sole judgment to be appropriate.

The Declarant further intends, but is not obligated to, develop a golf course and other recreational amenities on the Club Property, which property is included in the legal description for the Committed Property. Although the Club Property is included within the definition of the Committed Property, it is the specific intent of these CC&Rs that the Club Property, which is privately owned by the Club Property Owner and is not Association Property, shall not be subject to the jurisdiction of the Association or the ACB. The Club Property Owner shall retain all rights relative to the Club Property, including the right to develop or not develop recreational and other facilities on the Club Property. Declarant and Club Property Owner, as applicable, further reserve the right to modify the plan of development for the Committed Property, including the Club Property, and to seek any and all governmental zoning and permit amendments and approvals necessary to effectuate such modification. It is specifically contemplated that requested modifications may include requests to develop residential or commercial uses on the Club Property.

The Surface Water and Storm Water System is located throughout the Committed Property. Although the Surface Water and Storm Water System will initially be operated and maintained by the Declarant, at the Association's expense, and the Declarant contemplates that it may assign such obligations to the Association or Club Property Owner. The Declarant further contemplates that certain of the components of the Surface Water and Storm Water System which are located on or within the Club Property, including, without limitation, swales, inlets, culverts, retention and detention ponds, lakes, outfalls, storm drains, pipes and easements, may

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be re-designated in the future as Association Property and conveyed to the Association. The Declarant specifically reserves the right to re-designate any or all of the Club Property as Association Property by recording a Supplemental Declaration; provided, however, no such Supplemental Declaration shall become effective until and unless such Supplemental Declaration is also executed by the Club Property Owner. All of the Committed Property shall be subject to an easement or easements for encroachment in favor of the owner of the Surface Water and Storm Water System in the event any portion of the Surface Water and Storm Water System installed by Declarant now or hereafter encroaches upon any of the Lots as a result of minor inaccuracies in survey or construction, by design, or due to settlement or movement. Such encroaching Improvements installed by Declarant shall remain undisturbed for so long as the encroachment exists. Any easement for encroachment shall include an easement for the maintenance and use of the encroaching Improvements in favor of the Owner thereof or his designees.

Declarant expressly reserves the right as to the Committed Property to (i) commence construction and development of the Committed Property if and when Declarant desires; (ii) develop the Committed Property upon such timetable as Declarant, in its sole discretion, chooses; and (iii) modify the plan of development of the Committed Property in such manner as it, in its sole discretion, chooses. Declarant reserves the right to replat such portions of the Committed Property necessary to accomplish the modification of the plan of development. Nothing contained herein shall be construed as obligating Declarant to construct the Committed Property according to the present plan of development nor as obligating Declarant to declare any Additional Property to be Committed Property.

The Association is not a condominium association and therefore shall not be governed by the provisions of Chapter 718, Florida Statutes. These CC&Rs are not a declaration of condominium. No portion of the Committed Property is submitted by these CC&Rs to the condominium form of ownership. Declarant does not currently intend that any portion of the Committed Property be submitted to the condominium form of ownership except property which may at some future time be legally described in a declaration of condominium specifically prepared in accordance with Chapter 718, Florida Statutes, executed by or with the consent of Declarant. Further, the expressed intent of these CC&Rs is that neither the substantive rights nor the procedural rights hereunder shall retroactively be affected by legislation subsequent to the date of the execution of these CC&Rs.

Section 2. ADDITIONS TO COMMITTED PROPERTY. Declarant reserves the right and may, from time to time, in its sole discretion, by recording appropriate Supplemental Declaration(s) in the Public Records of the County, add any Additional Property or any other real property to the Committed Property governed by these CC&Rs, and may declare all or part of such Additional Property or other property (including any Improvements thereon) to be Lots, Association Property, or Club Property. Upon the recording of a Supplemental Declaration, the property described therein shall be deemed part of the Committed Property as if it were originally included therein and subject to these CC&Rs. Any such Supplemental Declaration may submit any Additional Property or any other real property to such modifications of the covenants and restrictions contained in these CC&Rs as may be necessary or convenient to reflect or adapt to any changes in circumstances or differences in the character of any such

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Additional Property or other property. Nothing contained in this Section shall be construed to require the joinder by or entitle a right to consent by Owners or the Association to any such Supplemental Declaration; provided, however, the Association shall join in the execution of any such Supplemental Declaration at the request of Declarant. Upon the recordation of a Supplement, the property described therein shall be Committed Property as fully as though originally designated herein as Committed Property. Declarant hereby reserves an easement for ingress and egress and for utilities and drainage over the Committed Property for the benefit of any Additional Property; provided, however, no such easement may be granted upon any portion of the Committed Property upon which a Home exists.

Section 3. DESIGNATION OF ADDITIONAL ASSOCIATION PROPERTY AND CLUB PROPERTY. The Declarant may, from time to time, by recording Supplemental Declarations in the County, designate additional portions of the then existing Committed Property owned by it to be Association Property or Club Property.

Section 4. DISCLAIMER OF IMPLICATION. Only the real property described in Exhibit "A" hereto is submitted and declared as the Committed Property subject to these CC&Rs. Unless and until a Supplemental Declaration is recorded in the fashion required pursuant to these CC&Rs, no other property (including any Additional Property) shall in any way be deemed to constitute a portion of the Committed Property or be affected by the covenants and restrictions expressly binding the Committed Property as provided by the terms of these CC&Rs.

Section 5. ABSENCE OF OBLIGATION. Nothing in these CC&Rs shall be construed to require the Declarant to add any Additional Property to the Committed Property encumbered by these CC&Rs or to require it to declare any portion of any properties added to the Committed Property to be Association Property, nor shall anything in these CC&Rs be construed to require the Declarant to declare any portion or portions of the existing Committed Property as Association Property or Club Property, except to the extent herein specifically provided.

Section 6. WITHDRAWAL. Notwithstanding anything herein to the contrary, Declarant reserves the absolute right at any time to withdraw portions of the Committed Property from the provisions of these CC&Rs by recording an appropriate Supplemental Declaration in the County. Any such Supplemental Declaration must be executed by the Declarant, the Owner of each Lot located on the portion of the Committed Property sought to be withdrawn (if any) and each holder of an Institutional Mortgage on a Lot located on the portion of the Committed Property sought to be withdrawn (if any), in order to be effective. Nothing contained in this Section shall be construed to require the joinder or consent by Owners of Lots upon the portion of the Committed Property which is not withdrawn by such Supplemental Declaration, such Owners' Institutional Mortgages, or the Association.

ARTICLE III

ASSOCIATION PROPERTY;
CONVEYANCE OF ASSOCIATION PROPERTY; CLUB PROPERTY

Section 1. ASSOCIATION PROPERTY. Association Property means and refers to all real and personal property, including easements, which the Association owns, leases, or with respect to which the Association otherwise holds possessory or use rights for the purposes set forth herein, including, but not limited to, the common use, enjoyment and benefit of all of the Owners in accordance with the terms of these CC&Rs. "Association Property" does not include any portion of the Club Property. The Association Property shall also consist of the property indicated on the Plat and Additional Plat, if any, as Association Property or as property reserved for or dedicated to use of the Association.

Section 2. DECLARANT'S RESERVATION OF RIGHT TO DEDICATE OR CONVEY. Declarant has specifically reserved the right on the Plat to dedicate or convey to the Association all or a portion of the properties described in the Plat. Accordingly, Association Property may include, from time to time, lakes, landscaping, buffers, drainage areas, utilities, amenities, common areas, together with landscaping and any other Improvements thereon, including, without limitation, the Surface Water and Storm Water Management System, the Utility Systems, all structures, gatehouses, open spaces, private streets, asphalt bike paths, sidewalks, irrigation facilities, decorative street lights, perimeter fence, entry or other lighting, if any, and entrance features, buffer tracts, monument walls, site walls, gazebos, retaining walls, fountains, littoral plantings and decorative street signs, but excluding any public utility installations thereon.

Section 3. USE OF ASSOCIATION PROPERTY. The Association Property shall be used for all proper purposes by the Association, the Owners, the Club Property Owner, and their family members, guests, invitees and lessees in accordance with the Conservatory Documents. Association Property may not be altered, modified, removed or replaced by Owners or their family members, guests, invitees or lessees. The Association Property shall be used solely in accordance with the covenants impressed upon the Association Property in these CC&Rs and as follows in this Section:

A. **Streets, Drives, Roads and/or Roadways.** The "Streets," "Drives," "Roads" and/or "Roadways" are those portions of the Committed Property designated on the Plat or Additional Plat, if any, as a street, drive, road, roadway, way, loop, or lane and which are reserved for use by or dedicated to the Association, but specifically excluding any street or roadway dedicated to the public on the Plat or Additional Plat, if any. The Streets, Drives, Roads and/or Roadways shall be used as private roads by Declarant, the Association and the Owners, their family members, guests, lessees and invitees in accordance with the provisions of these CC&Rs. The Streets, Drives, Roads and/or Roadways shall be maintained and administered by the Association until such time as they may be publicly dedicated. Notwithstanding the foregoing, each Owner shall be responsible for the maintenance, repair and replacement of the driveway serving his Lot, including that portion of the driveway in a Street, Drive, Road and/or Roadway, if any, unless the driveway was damaged by the Association in the fulfillment of its

obligations and duties under these CC&Rs. The Club Property Owner, and all of Club Property Owner's employees, contractors, guests, and club members shall have an easement over the Streets, Drives, and Roads for ingress and egress to and from the Club Property, and for the use of the Club Property.

B. Open Space Areas. The "Open Space Areas" are those portions of the Committed Property designated on the Plat or Additional Plat, if any, as "Open Space Tracts." Open Space Areas are to be used, kept and maintained as such by Declarant, Club Property Owner, the Association, and the Owners, their family members, guests, lessees and invitees, in accordance with the provisions of the Plat and these CC&Rs. Open Space Areas, if conveyed to the Association, shall be owned by the Association and shall be administered and maintained by the Association in accordance with the requirements of the appropriate governmental agencies. Notwithstanding anything herein to the contrary, in the event that a parcel designated as "Open Space" on the Plat is also designated for golf course use or any other use by Declarant, such parcel shall initially be designated as part of the Club Property.

C. Street Lights. The "Street Lights" and any associated facilities placed within the Committed Property are or shall be installed, repaired, replaced, relocated, maintained and owned by the public utility responsible therefor, or owned by the Association but in either case, the Association is responsible to pay all fees associated with such installation, repair, replacement and maintenance, and for the furnishing of electricity thereto. Nothing in these CC&Rs shall be construed to require Declarant to install Street Lights within the Committed Property.

D. Decorative Street Lights. Declarant reserves the right, but shall not be obligated, to install "Decorative Street Lights" in or near the entranceway and gatehouse to the Committed Property. The Decorative Street Lights shall be installed, repaired, replaced, relocated, maintained and owned by the Association.

E. Gatehouse, Entranceway and Entry Gates. The Committed Property may include a manned gatehouse and entry gates installed by Declarant. Such gatehouse, entranceway and/or entry gates shall be deemed Association Property and shall be maintained, repaired or replaced by the Association and the expense thereof shall be included as an Operating Expense. The gatehouse, if any, may or may not be staffed, as determined in the sole discretion of the Association. All other portions of the entranceway shall also be owned and maintained by the Association. **NEITHER DECLARANT, CLUB PROPERTY OWNER, NOR THE ASSOCIATION MAKES ANY REPRESENTATIONS WHATSOEVER AS TO THE SECURITY OF THE COMMITTED PROPERTY OR THE EFFECTIVENESS OF ANY ENTRY GATES. ALL OWNERS AGREE TO HOLD DECLARANT, CLUB PROPERTY OWNER, AND THE ASSOCIATION HARMLESS FROM ANY LOSS OR CLAIM ARISING WITHIN THE COMMITTED PROPERTY FROM THE OCCURRENCE OF A CRIME OR OTHER ACT. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, NEITHER DECLARANT, CLUB PROPERTY OWNER, NOR THE ASSOCIATION MAKES ANY REPRESENTATIONS WHATSOEVER TO COMMENCE, COMPLETE, CONSTRUCT OR STAFF ANY GATEHOUSE OR ENTRY GATE WITHIN ANY SPECIFIC TIME PERIOD. NO SUCH GATEHOUSE,**

ENTRANCEWAY, ENTRY GATES OR OTHER TRAFFIC CONTROL SHALL UNREASONABLY INTERFERE WITH OR RESTRICT THOSE PERSONS ENTITLED TO ENTER INTO THE COMMITTED PROPERTY TO UTILIZE THE CLUB PROPERTY.

F. Buffers. The "Buffers" are those portions of the Committed Property which run along the outer perimeter of the Committed Property or adjacent to certain Streets, Drives, Roads and/or Roadways, and are designated on the Plat or Additional Plat, if any, as open space tracts or as buffers. In order to preserve the aesthetic image of the Committed Property and to help maximize the Owners' use and enjoyment thereof, no Improvements, landscaping or other additions are permitted within the Buffers without the prior written consent of the ACB (as hereinafter defined) and appropriate governmental agencies, excepting any Improvements, landscaping or other additions made or installed by Declarant such as, but not limited to, signs, walkways and light poles.

G. Right to Add Additional Improvements. Such portions of the Association Property upon which Declarant has constructed, or hereafter constructs, Improvements shall be kept and maintained for use in a manner consistent with the nature of such Improvements located, or to be located, thereon. Declarant reserves the right, but shall not be obligated, to construct additional facilities upon the Association Property. The decision as to whether to construct additional facilities and the construction thereof shall be in the sole discretion of Declarant.

H. Association's Right to Assign Maintenance Responsibilities. The Association reserves the right to assign any of its responsibilities to maintain and administer the Association Property to another entity, in whole or in part, whether public or private; provided, however, any assignment shall be subject to the easements and reservations of the Declarant and the Club Property Owner provided herein and shall not become effective unless and until approved in writing by both the Declarant and the Club Property Owner.

Section 4. TITLE TO THE ASSOCIATION PROPERTY. To the extent herein provided, the Association Property is hereby dedicated to the joint and several use in common of the Owners of all Lots that may, from time to time, constitute part of the Committed Property. When title to all Lots which are subject to the provisions hereof has been conveyed to non-Declarant purchasers, or earlier at Declarant's option exercisable from time to time, as to any portions of the Association Property, the Declarant or its successors and assigns shall convey and transfer to the Association, by quit claim deed, the fee simple title to the Association Property free and clear of any liens and the Association shall accept such conveyance, holding title for the Owners as aforesaid. Such conveyance shall be subject to any real estate taxes and assessments due with respect to such Association Property from and after the date of recording these CC&Rs; any covenants, conditions, restrictions, permits, reservations and limitations then of record; the easements herein set out; any zoning ordinances then applicable; and these CC&Rs, as amended from time to time. The Club Property is not Association Property, and in no event shall the Declarant or the Club Property Owner have the obligation to convey the Club Property to the Association.

At the time of conveyance of the Association Property or any portion thereof, the Association shall be required to accept such property and the personal property, if any, and

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Improvements appurtenant thereto. The Association hereby agrees to accept the Association Property and the personal property and Improvements appurtenant thereto in "AS IS" "WHERE IS" condition, without any representation or warranty, expressed or implied, in fact or by law, as to the condition or fitness of the Association Property or any portion thereof, and the personal property and Improvements appurtenant thereto.

The Association shall accept this conveyance of the Association Property and shall pay all costs of such conveyance including documentary stamps and other taxes of conveyance, recording charges, title insurance expenses and insurance fees. The conveyance shall not, however, impair in any way the Declarant's rights and easements as set forth in these CC&Rs.

Commencing upon the date these CC&Rs is recorded, and notwithstanding that title thereto has not yet been conveyed to the Association, the Association shall be responsible for the maintenance of the Association Property in a continuous and satisfactory manner. The Association shall be responsible for the payment of real estate and other taxes, if any, against the Association Property including taxes on any Improvements and any personal property thereon accruing from and after the date these CC&Rs is recorded.

The Owners (including Declarant as to Lots owned by it) shall have no personal liability for any damages for which the Association is legally liable or arising out of or connected with the existence or use of any Association Property or any other property required to be maintained by the Association.

Subject to the foregoing, the Declarant may mortgage any or all portions of the Association Property to finance construction and development expenses provided that the mortgagee recognizes the rights of Owners under these CC&Rs and neither the Association nor any Owner is personally liable for paying the mortgage. In such event, neither the Association nor the Owners shall be required to join in or be entitled to consent to such mortgage. The Association Property shall be released from any such mortgage no later than the date same is conveyed to the Association.

Section 5. PARKING RIGHTS. The Association may maintain upon the Association Property parking spaces for Owners, Club Property Owner, occupants, and their tenants, visitors and guests. The use of such parking spaces shall be subject to duly adopted rules and regulations of the Association.

Section 6. THE CLUB PROPERTY. NEITHER THE CLUB PROPERTY OWNER, THE CLUB PROPERTY, NOR THE CLUB IS GOVERNED BY THE ASSOCIATION.

Declarant and the Club Property Owner make no representations, warranties, guaranties, commitments or promises that the Club Property, if any, will ever be improved with any golf or recreational facilities or operated in any particular manner. All information with respect to the Club Property can only be obtained from the Membership Plan Documents (defined below). By accepting title to any Lot, each Owner hereby acknowledges, accepts, covenants and agrees that the Club Property is not Association Property and that the Owner has no right, title or interest in the Club Property.

A. Membership in The Club at Hammock Beach. Club Property Owner has indicated its intent to develop certain recreational amenities on the Club Property for use by members of The Club at Hammock Beach (the "Club"), a private recreational club that operates recreational and social facilities at several locations in the County. Owners have no right to membership in the Club by virtue of their ownership of a Lot or Home. Membership in the Club, if offered by the Club Property Owner to Owners of Lots, is optional and may be available to such Owners who apply, are approved for membership, and maintain in good standing with the Club.

B. Membership Plan Documents. Membership in the Club is subject to the terms and conditions of the Club Membership Plan, the Rules and Regulations and the Membership Agreements, as the same may be amended from time to time (the "Membership Plan Documents"). Membership in the Club generally requires the payment of a membership purchase price called a membership deposit and membership dues, fees and other amounts (the "Club Charges"). Club Charges shall be determined by the Club and are subject to change as contemplated by the Membership Plan Documents.

C. Club Property. The Club Property is privately owned and operated by the Club Property Owner and is not a part of the Association Property. The Club 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 Property shall be used. By way of example, but not limitation, the Club has the right to approve users and determine eligibility for use, to reserve use rights for future purchasers of Lots or Homes, to modify the Membership Plan Documents, to reserve memberships, to sell, lease or otherwise dispose of the Club Property in any manner whatsoever and to any person whomsoever, to add, issue or modify any type, category or class of membership, to recall any membership at any time for any or no reason whatsoever, to convert the Club into a member-owned club, to make any other changes in the terms and conditions of membership or in the facilities available for use by members and to require the payment of a purchase price, initiation fee, membership deposit, dues and other charges for use privileges. **ACQUISITION OF A MEMBERSHIP IN THE CLUB, IF OFFERED BY THE CLUB PROPERTY OWNER, IS OPTIONAL. OWNERSHIP OF A LOT OR ANY PORTION OF THE COMMITTED PROPERTY OR MEMBERSHIP IN THE ASSOCIATION DOES NOT GIVE ANY VESTED RIGHT OR EASEMENT, PRESCRIPTIVE OR OTHERWISE, TO USE THE CLUB PROPERTY AND DOES NOT GRANT ANY OWNERSHIP OR MEMBERSHIP INTEREST IN THE CLUB OR THE CLUB PROPERTY.**

D. Acknowledgements Regarding Club Property. Each Owner, by acceptance of a deed or contract of sale to a Lot acknowledges:

1. That membership to use the Club Property shall be subject to the terms and conditions of the Membership Plan Documents.

2. Notwithstanding the fact that the Club Property may be considered open space or a recreation area for purposes of applicable zoning ordinances and regulations, each Owner by acquisition of title to a Lot releases and discharges forever the Declarant, the Club Property Owner, the Club, their affiliates, successors and assigns and their respective members, SOLICITORS, 59039, 00001, 100788155.14, Conservatory - Declaration of CCRs

partners, shareholders, officers, directors, employees and agents from: (1) any claim that the Club Property is, or must be, owned and/or operated by the Association or the Owners, and/or (2) any claim that the Owners are entitled to use the Club Property by virtue of their ownership of a Lot without acquiring a membership in the Club, paying the applicable membership contribution or membership deposit and dues, fees and charges established by the Club from time to time, and complying with the terms and conditions of the Membership Plan Documents for the Club.

3. Each Owner and the Association shall jointly and severally indemnify, defend, and hold harmless the Declarant, the Club Property Owner, the Club, their affiliates, successors and assigns and their respective members, partners, shareholders, officers, directors, employees and agents, against and in respect of, and to reimburse the Declarant, the Club Property Owner, the Club, their affiliates, successors and assigns and their respective members, partners, shareholders, officers, directors, employees and agents, on demand for, any and all claims, demands, losses, costs, expenses, obligations, liabilities, damages, recoveries and deficiencies, including, but not limited to, interest, penalties, attorney and paralegal fees and disbursements (even if incident to any appeals), that the Declarant, the Club Property Owner, the Club, their affiliates, successors and assigns and their respective members, partners, shareholders, officers, directors, employees and agents, shall incur or suffer, which arise out of, result from or relate to any claim that because the Club Property is deemed to be open space or a recreation area for purposes of applicable zoning ordinances and regulations, the Club Property must be owned and/or operated by the Association or the Owners and/or that Owners may use the Club Property without acquiring a membership in the Club pursuant to the Club's Membership Plan Documents and paying the membership contribution or membership deposit, and dues, fees and charges established by the Club from time to time;

4. That any entry upon the Club Property without permission of the Club may be deemed a trespass and each Owner shall refrain from, and shall cause all occupants of such Owner's Lot, their guests and invitees to refrain from any unauthorized entry upon the Club Property;

5. That the proximity of Lots and Association Property to the Club Property results in certain foreseeable risks, including the risk of damage or injury from errant golf balls, or recovery thereof and that each Owner's use and enjoyment of his or her Lot and the Association Property may be limited as a result and that neither the Association, Declarant, Club Property Owner, nor the Club shall have any obligation to take steps to remove or alleviate such risks, nor shall they have any liability to any Owner or occupant of any Lot, their guests or invitees, for damage or injury resulting from errant golf balls being hit upon any Lot or Association Property or recovery thereof;

6. That the Club and its designees may add to, remove or otherwise modify the landscaping, trees, and other features of the Club Property, including changing the location, configuration, size and elevation of bunkers, fairways and greens and constructing fences, and that neither the Club, Club Property Owner, Declarant, nor the Association, shall have any liability to Owner as a result of such modifications to the Club Property;

7. That there are no express or implied easements over the Club Property for view purposes and no guaranty or representation is made by Declarant or any other Person that any view over and across the Club Property will be preserved without impairment, and that neither the Club, Club Property Owner, Declarant nor the Association shall have any obligation to prune or thin trees or other landscaping to preserve views over the Club Property;

8. That no representations or warranties which are inconsistent with this Section, either oral or written, have been made or are made by Declarant or the Association or by any person acting on behalf of any of the foregoing;

9. That the Club Property Owner may own one or more lakes, water retention ponds or other water features on the Committed Property. Notwithstanding the ownership of such lakes or water retention ponds, the Club may use any and all lakes, water retention ponds or other water features on the Committed Property for the purpose of irrigating and maintaining the Club Property with the result that the water level in such lakes, water retention ponds or other water features may from time to time vary. Each Owner of a Lot in the Committed Property acknowledges such right on the part of the Club and agrees not to commence any cause of action or other proceeding involving the Club based on the exercise of such right or otherwise interfere therewith; and

10. In the event there are insufficient water levels to provide the necessary irrigation needs of the Club Property and all other areas of the Committed Property, subject to applicable governmental permits and requirements, the Club Property shall have first priority of irrigation, followed by the Association Property, any other area of common responsibility.

E. Rights of Access and Parking. The Club Property Owner and members of the Club (regardless of whether such persons are Owners hereunder), their guests and invitees and the employees, agents, contractors and designees of the Club Property Owner shall at all times have a right and a non-exclusive easement of access and use, over all roadways located within the Committed Property reasonably necessary to travel to and from the entrance of the Committed Property, from and to the Club Property, respectively and further over those portions of the Committed Property (whether Association Property or otherwise) reasonably necessary for the use, operation, maintenance, repair and replacement of the Club Property. Without limiting the generality of the foregoing, members of the Club and members of the public shall have the right to use the pedestrian and golf cart paths located throughout the Committed Property and to park their vehicles on the roadways located within the Committed Property at reasonable times before, during and after tournaments and various other functions held at the Club Property.

F. Utility and Services Easements. Declarant hereby grants the following perpetual, alienable, and transferable non-exclusive easement over and across the Committed Property for the benefit of the Club Property Owner: all of the Committed Property shall be subject to an easement or easements to provide for: (a) installation, service, repair and maintenance of the equipment and lines required to provide utility services to the Club Property, including, but not limited to, power, lights, telephone, cable television, gas, water, sewer and drainage, (b) governmental services, including, but not limited to, police, fire, health, sanitation and other public service personnel, including reasonable rights of access for persons and equipment necessary for such purposes for the benefit of the appropriate utility companies, agencies, SOLICITORS, 59039, 00001, 100788155.14, Conservatory - Declaration of CCRs

franchises or governmental agencies, and (c) installation, service, repair and maintenance of the Club Property and the facilities constructed or to be constructed thereon.

G. Drainage and Irrigation Easement. Declarant hereby grants the following perpetual, alienable, and transferable non-exclusive easement over and across the Committed Property for the benefit of the Club Property Owner: an easement for drainage, flowage and irrigation over, under and upon the Committed Property, including each of the Lots, in favor of the Club Property Owner, including, but not limited to, reasonable rights of access for persons and equipment to construct, install, maintain, alter, inspect, remove, relocate and repair the water Surface Water and Storm Water Management System, flowage pipes and irrigation pipes. There is hereby further reserved for the benefit of Club Property Owner, and its agents, employees, successors, and assigns, a perpetual non-exclusive easement over, across and on the rights-of-way of all streets, roads and all unimproved portions of the Association Property and all areas of the Surface Water and Storm Water Management System for access to construct, install, inspect, operate, maintain, repair or replace the Surface Water and Storm Water Management System. By this easement, the Club Property Owner shall have the right to enter upon any portion of any portion of the Committed Property, including any Lot, which is a part of the Surface Water and Storm Water Management System, at a reasonable time and in a reasonable manner, to operate, maintain or repair the Surface Water and Storm Water Management System as required by the SJRWMD permit. Provided, however, notwithstanding anything herein to the contrary, Club Property Owner shall only exercise its right to enter onto a Lot pursuant to this paragraph if Club Property Owner has been assigned the responsibility to maintain the Surface Water and Storm Water Management System, and shall exercise any of such rights in a manner that does not disturb any Home constructed on the Lot or materially interfere with an Owner's ability to construct a Home on the Lot. Additionally, the Club Property Owner shall have a perpetual non-exclusive easement for drainage, stormwater collection, retention and detention over, upon and within the entire Surface Water and Storm Water Management System and all other drainage easements shown on each plat or otherwise reserved, declared or created pursuant to these CC&Rs. No person shall alter the drainage flow of the Surface Water and Storm Water Management System, including buffer areas or swales, without the prior written approval of the SJRWMD.

H. Easement to Enter Upon Lots. Declarant hereby grants the following perpetual, alienable, and transferable non-exclusive easement over and across the Committed Property for the benefit of the Club Owner: an easement or easements for ingress and egress in favor of the Club Property Owner, to enter upon the Lots for the purposes of fulfilling its duties and responsibilities of ownership, maintenance and/or repair of the Club Property. Provided, however, Club Property Owner shall exercise its rights pursuant to this paragraph in a manner that does not disturb any Home constructed on the Lot or materially interfere with an Owner's use or enjoyment of their Lot.

I. Landscape, Operation, and Maintenance Easement. By recordation of these CC&Rs, Declarant does hereby reserve for itself and the Club Property Owner and the members of the Club, a perpetual, alienable, and transferable easement over, across and upon each and every Lot which abuts or is contiguous to the Club Property for the purpose of operation and maintenance of the Club Property, including but not limited to the installation of recreational and

other facilities on the Club Property and the use of usual and common equipment for irrigation, maintenance and landscaping thereof, which easement shall specifically constitute a part of the Club Property. By way of example and not limitation, such easement shall permit, but shall not require, entry into any Lot for the purpose of planting grass, applying fertilizer, mowing and edging and removing any underbrush, trash, debris and trees.

J. Golf Course Easements. By recordation of these CC&Rs, Declarant does hereby reserve for itself and the Club Property Owner and the members and guests of the Club, a perpetual, alienable and transferable easement over, across and upon each and every Lot which abuts or is contiguous to the Club Property for the purpose of doing every act necessary and appropriate to the use and enjoyment of the golf courses, if any, located on the Club Property, and the playing of golf on the Club Property ("**Golf Course Easements**"), which shall include, but not be limited to, the recovery of golf balls from any Lot, the flight of golf balls over and upon any Lot, the usual and common noise level created by the playing of golf and the usual and common activities associated with the operation and maintenance of the Club Property. Nothing herein however, shall be deemed to permit the playing of golf on any Lot, it being the intention of this easement that golf play should be limited to the Club Property.

1. The existence of the Golf Course Easement shall relieve golfers of personal liability for damage caused by errant golf balls. Under no circumstances shall any of the following persons be held liable for any damage or injury resulting from errant golf balls or the exercise of this easement: Declarant; the Association or its Members (in their capacity as such); the successors-in-title to any golf courses; any developer or contractor (in their capacities as such); any successor or assigns to any of the foregoing; or any officer, owner, director, agent or partner of any of the foregoing, or any officer, owner, or director of any partner.

2. The Club Property Owner or the owner of any other golf course located on the Committed Property, including their respective agents, successors and assigns, shall at all times have a perpetual, non-exclusive easement of access and use over and across those portions of the Committed Property and the Lots reasonably adjacent to the golf course as is reasonably necessary to the use, operation, maintenance, repair and replacement of such golf course.

3. The owners of any golf course on or adjacent to the Committed Property, including the Club Property Owner and the owner of any other golf course located on the Committed Property, and their respective successors and assigns, shall have a perpetual, exclusive easement of access over the Committed Property for the purpose of retrieving golf balls from bodies of water, other than pools, lying reasonably within range of golf balls hit from such golf course property. All golf balls within such bodies of water not immediately retrieved by the owner of such golf balls shall be the property of the golf course property owner.

K. Assumption of Risk and Indemnification. Each Owner by its purchase of a Lot expressly assumes the risks associated with the Club Property (regardless of whether the Owner is using the Club Property) and agrees that neither Declarant, Club Property Owner, the Club, the Association nor any of their affiliates, successors and assigns or their respective members (in the case of limited liability company only), partners, shareholders, officers, directors, employees and agents nor any other entity designing, constructing, owning or managing the Club Property or planning or constructing the Owner's Lot or Home shall be liable to Owner or any other person

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claiming any loss or damage, including, without limitation, indirect, special or consequential loss or damage arising from personal injury, destruction of property, loss of view, noise pollution or other visual or audible offenses or trespass or any other alleged wrong or entitlement to remedy based upon, due to, arising from or otherwise related to the proximity of the Owner's Lot or Association Property to the Club Property, including without limitation, any claim arising, in whole or in part, from the negligence of Declarant or any other entity designing, constructing, owning or managing the Club Property or planning or constructing the Owner's Lot or Home. Each Owner hereby agrees to indemnify and hold harmless Declarant, Club Property Owner, the Club, the Association, their affiliates, successors and assigns or their respective members (in the case of limited liability company only), partners, shareholders, officers, directors, employees and agents and any other entity owning or managing the Club Property against any and all claims by Owner's guests and invitees.

L. The Club's Approval Rights. The Club Property Owner shall have the right to disapprove actions of the Association, Board and any committees which in its reasonable judgment materially and adversely affects the use of the Club, the Club Property or the rights or obligations of the Club Property, the Club Property Owner, or the Club under these CC&Rs. This right may be exercised by the Club at any time within ten (10) days after the Club's receipt of the notice of such proposed action. In the event that the Club Property Owner disapproves of any action of the Association, Board, or any committee, the Association, Board or committee, as applicable, shall immediately cease and desist from taking any further action to move forward with, or implement, the disapproved action.

This Section 6 may not be amended without the written consent of the Club.

Section 7. COSTS. All costs associated with operating, maintaining, repairing and replacing the Association Property shall be the obligation of the Association. The Association Property shall be conveyed to the Association in accordance with the provisions of Article III, Section 4 hereof.

Section 8. MODELS. Declarant hereby reserves the right for Declarant and Declarant's affiliates, including Featured Builders, to construct and/or operate "model(s)" on the Committed Property. The "model(s)" may also be used for other communities being developed by Declarant, as Declarant, Featured Builders, or any of Declarant's affiliates, as they may so determine, in their sole discretion. The "model(s)" may also contain parking, landscaping and fencing across Streets, Drives, Roads and/or Roadways as Declarant may determine in its sole discretion. In the event that Declarant, Featured Builders, or any of Declarant's affiliates constructs "model(s)" in the Committed Property, such "model(s)" may be used for such period of time that Declarant, Featured Builders, or any of Declarant's affiliates determines to be necessary. By an Owner's acceptance of a deed for a Lot, each Owner agrees and acknowledges that: (i) Declarant, Featured Builders, and any of Declarant's affiliates have a right to construct or operate "model(s)"; (ii) Declarant, Featured Builders, and any of Declarant's affiliates have an easement over the Committed Property, including any Association Property, for ingress and egress to and from the "model(s)" and to use and show the models to prospective purchasers in the Committed Property or other communities being developed by Declarant, any of Declarant's affiliates, or Featured Builders as long as such "model(s)" exist; and (iii) such Owner shall not

interfere in any manner whatsoever in the sales process by Declarant, any of Declarant's affiliates, or Featured Builders, including the carrying of signs or other types of demonstrations in the Committed Property or any public right-of-way adjacent to the Committed Property. Each Owner acknowledges that any such activities interfere with the quiet enjoyment of the Committed Property by the other Owners, are detrimental to the value of the Homes and the Club Property, and interfere with the Declarant's and the Club Property Owner's ability to conduct their business.

Section 9. CLUB PROPERTY OWNER'S RIGHT TO IMPROVE ASSOCIATION PROPERTY.

Declarant hereby expressly reserves for itself and for the Club Property Owner, the right to construct improvements upon the Association Property and to upgrade the improvements constructed on the Association Property. For purposes of this paragraph, "upgrades" shall include, without limitation, the installation of additional landscaping and plantings, the installation and replacement of Improvements, and the replacement of building materials with materials deemed superior by Declarant or Club Property Owner, in their sole discretion, such as the replacement of asphalt surfaces with decorative brick surfaces. All installations made pursuant to this paragraph shall become Association Property upon completion. Any and all initial construction and upgrade costs shall be the sole responsibility of the Declarant or the Club Property Owner, as applicable, and any and all future maintenance or replacement costs shall be the responsibility of the Association. All installations made pursuant to this paragraph shall be maintained by Association in accordance with the Community-Wide-Standard, which shall be established for such installations at the time that the installations are conveyed to the Association or otherwise deemed to be Association Property.

Section 10. PRIVATE USE. For the term of these CC&Rs, the Association Property is not for the use and enjoyment of the public, but is expressly reserved for the private use and enjoyment of Declarant, the Club Property Owner, the Association, and the Owners, and their family members, guests, tenants, invitees and lessees, but only in accordance with these CC&Rs.

A. Notwithstanding anything in these CC&Rs to the contrary, however, Declarant hereby expressly reserves the right to use the Association Property for such period of time as Declarant determines to be necessary in connection with the sale and marketing by Declarant of Lots and Homes and in any other communities developed or to be developed by Declarant or its affiliates, including, but not limited to, the holding of sales and marketing meetings and engaging in sales promotions and related sales and marketing activities.

B. The administration, management, operation and maintenance of the Association Property shall be the responsibility of the Association, as provided herein and in the Conservatory Documents.

C. The right to use the Association Property shall be subject to the rules and regulations established by the Association from time to time.

Section 11. NO CHARGE FOR USE OF EASEMENTS. Declarant, Club Property Owner, their guests and invitees and the employees, agents, contractors and designees of the Club Property Owner shall have the right to utilize the easements granted to each of them under this Article and these CC&Rs without cost or expense. In furtherance thereof, Association is SOLICITORS, 59039, 00001, 100788155.14, Conservatory - Declaration of CCRs

expressly prohibited from attempting to collect any Assessments or other charges relating to these easements from Declarant, Club Property Owner or any person or entity granted easement rights hereunder (other than Owners).

ARTICLE IV

OWNERS' PROPERTY RIGHTS

Section 1. OWNERS' EASEMENTS OF ENJOYMENT. Every Owner and family member, guest, lessee, agent or invitee of an Owner shall have a permanent and perpetual, nonexclusive easement for ingress and egress over, enjoyment in, and use of Association Property, in common with all other Owners, their family members, guests, lessees, agents and invitees, which easement shall be appurtenant to, and shall pass with title to each Owner's Lot. This right shall be subject to the following conditions and limitations:

A. The right and duty of the Association to reasonably limit the number of guests, invitees or lessees of an Owner using the Association Property.

B. The right and duty of the Association to levy Assessments against each Lot for the purpose of maintaining, repairing and replacing the Association Property and facilities thereon in compliance with the provisions of these CC&Rs and the restrictions on portions of the Committed Property from time to time recorded by the Declarant, including the right of the Association to suspend the right to use the Association Property of any Owner for any period during which Assessments against his Lot remain unpaid, subject to applicable laws and the notice and hearing provisions in Article X, Section 1 herein.

C. The right of the Association to establish uniform rules and regulations pertaining to the use of the Association Property.

D. The right of the Association to establish uniform rules and regulations pertaining to the Lots for the purposes of enhancing the aesthetic uniformity of the Committed Property.

E. The right of the Association in accordance with its Articles, Bylaws, and these CC&Rs, with the vote or written assent of two-thirds (2/3) of the total voting interests, to borrow money for the purpose of improving the Association Property and facilities thereon, and, in aid thereof, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, provided that the rights of such mortgagee shall be subordinated to the use rights of the Owners.

F. The right of the Association to dedicate, release, alienate, or transfer all or any part of the Association Property to any public agency, or utility for such purposes and subject to such conditions as may be agreed to by the Owners. No such dedication, release, alienation, or transfer shall be effective unless Members entitled to cast two-thirds (2/3) of the total voting interests agree to such dedication, release, alienation or transfer; provided, however, that no such

vote shall be required with respect to the public dedication of any Street, Drive, Road and/or Roadway which is not titled in the name of the Association.

G. The right of the Association to grant easements, licenses, permits, rights-of-way or strips of land, where necessary, for utilities, sewer facilities, cable television, and other services over the Association Property to serve the Association Property and other portions of the Committed Property without vote of the Owners.

H. The right of the Association to grant or dedicate to any governmental agencies and/or to any utility companies, and to reserve, easements and rights-of-way, in, through, under, over and across the Association Property for the installation, maintenance and inspection of lines and appurtenances for public or private water, sewer and drainage development of the Committed Property, subject at all times to the terms and conditions of any SJRWMD permits and/or conservation easements.

I. The right of the Declarant and Declarant's officers, directors, partners, employees, agents, licensees, and invitees to the nonexclusive use of the Association Property and the facilities thereon, without charge, for sales, display, access, ingress, egress, construction, and exhibit purposes.

J. The right of the Association, by action of the Board, to reconstruct, replace, or refinish any Improvement or portion thereof upon the Association Property, in accordance with the original design, finish, or standard of construction of such Improvement.

K. The right of the Association to replace destroyed trees or other vegetation and plant trees, shrubs, and ground cover upon any portion of the Association Property.

L. The right, however not the duty, of the Association by action of the Board to seek the vacation of publicly dedicated streets, if any, upon the Committed Property.

M. The easements provided elsewhere in these CC&Rs, designated on the Plat, or on the Additional Plat, if any, including, but not limited to, those set forth in this Article IV.

N. The right of the Association to provide for the maintenance, preservation and architectural control of Lots and other properties as set forth in these CC&Rs.

O. All of the rights of the Club Property Owner set forth in these CC&Rs.

P. All provisions set forth in the Conservatory Documents.

Section 2. DELEGATION OF USE. Any Owner may delegate, in accordance with the Bylaws, his/her right of enjoyment to the Association Property to the members of his family, or to the lessees who reside in his/her Home, subject to all of the rules and regulations presently in effect and any which may become effective in the future, and further subject to reasonable regulation by the Board.

Section 3. RECOGNITION OF OTHER EASEMENTS. Each Owner, by acceptance of a deed or other instrument of conveyance, recognizes and consents to the easements reserved and/or granted with respect to the Committed Property under these CC&Rs.

Section 4. CONSERVATION EASEMENT AREAS. A. Conservation Easement Areas. Pursuant to the provisions of Section 704.06, Florida Statutes, Declarant granted in the Plat conservation easements over certain delineated conservation areas to the SJRWMD. These conservation easements include certain conservation easements related to an unregistered eagles nest, and include all areas within 750 feet of the unregistered eagles next (denoted as a primary zone) and all wetlands and upland buffers between 750 and 1500 feet of the unregistered eagles next (denoted as the secondary zone). Conservation easements areas related to the unregistered eagle's next include Tracts CA-6, CA-9 and portions of Tracts CA-2, CA-7, and CA-11, as such tracts are shown on the Plat. All other easements and tracts within conservation easement areas are subordinate to any conservation easements reserved or dedicated on the Plat. Conservation easements dedicated to the SJRWMD for the protection of the aforementioned unregistered eagle's nest shall be vacated upon relocation of the eagle, abandonment of the nest by the eagle, or if the bald eagle is removed from the endangered species list, and as provided for by applicable law.

B. Prohibited Uses. There shall be no removal or disturbance of any vegetation within such conservation easements without the prior written consent of the Declarant, SJRWMD, and any other authority having jurisdiction over the easement. Any proposed construction, activities, or other use within a conservation easement areas must be reviewed and approved by the Declarant, SJRWMD, and any other authority having jurisdiction over the conservation easement. Conservation easement areas are subject to Section 704.06, Florida Statutes. Wetlands located within conservation easements are protected common areas with associated upland buffer areas.

C. Responsibilities. The owner of the portion of the Committed Property subject to the conservation easement, as applicable, is responsible for the periodic removal of trash and other debris which may accumulate in the conservation easement areas.

D. Rights of St. Johns River Water Management District. To accomplish the purposes stated in the conservation easement, the Declarant conveys the following rights to the SJRWMD:

1. To enter upon and inspect the conservation easement areas in a reasonable manner and at reasonable times to determine if Declarant or its successors and assigns are complying with the covenants and prohibitions contained in the conservation easement.

2. To proceed at law or in equity to enforce the provisions of the conservation easement and the covenants set forth herein, to prevent the occurrence of any of the prohibited activities set forth herein, and require the restoration of areas or features of the conservation easement areas that may be damaged by any activity inconsistent with the conservation easement.

3. **Amendment.** The provisions of the conservation easement may not be

amended without the prior written approval of the SJRWMD.

Section 5. EASEMENTS FOR VEHICULAR TRAFFIC AND GOVERNMENTAL SERVICES. In addition to the general easements for use of the Association Property reserved herein, there shall be, and Declarant hereby reserves, grants, and covenants for itself and all future Owners, their family members, guests, invitees and lessees, Institutional Mortgagees of the Committed Property (or portions thereof), and to the Association, that all of the foregoing shall have a perpetual nonexclusive easement for vehicular traffic over (i) all streets dedicated to the public use, if any (as well as alcoves, cul de sacs, and other private, paved areas abutting or serving the same), and (ii) any private Streets, Drives, Roads and/or Roadways within or upon the Committed Property. Additionally, there shall be a perpetual nonexclusive easement over any private Streets, Drives, Roads and/or Roadways within or upon the Committed Property for the provision of governmental services, including, but not limited to, police, fire, health, sanitation and other public services, including reasonable rights of access for persons and equipment necessary for the City, County, or other appropriate agencies, franchises or governmental agencies to provide such services.

Section 6. ACCESS EASEMENT. Declarant hereby reserves perpetual, nonexclusive easements of ingress and egress over and across (i) any and all streets dedicated to the public use, if any (as well as alcoves, cul de sacs, and other private, paved areas abutting or serving the same), and (ii) any private Streets, Drives, Roads and/or Roadways and driveways within or upon the Committed Property and all other portions of the Committed Property which are necessary or convenient for enabling Declarant or Club Property Owner to carry on the work referred to in these CC&Rs, which easements shall be for the use of Declarant, Club Property Owner, Declarant's or Club Property Owner's employees, contractors and agents, Declarant's successors and assigns, Owners, and the respective lessees, employees, agents, invitees, and licensees of Declarant, Club Property Owner, and Owners.

Section 7. GRANT AND RESERVATION OF EASEMENTS. Declarant hereby reserves and grants the following perpetual, nonexclusive easements over and across the Committed Property as covenants running with the Committed Property for the benefit of the Owners, the Association, and Declarant as hereinafter specified for the following purposes:

A. **Utility and Services Easements.** All of the Committed Property shall be subject to an easement or easements to provide for: (a) installation, service, repair and maintenance of the equipment and lines required to provide utility services to the Association Property and the Lots, including, but not limited to, power, lights, gas, water, sewer and drainage, and (b) governmental services, including, but not limited to, police, fire, health, sanitation and other public service personnel, including reasonable rights of access for persons and equipment necessary for such purposes for the benefit of the appropriate utility companies, agencies, franchises or governmental agencies.

B. **Easement for Encroachment.** All of the Committed Property shall be subject to an easement or easements for encroachment in favor of each Owner in the event any portion of his/her Home or appurtenant Improvements installed by Declarant or Builder such as stucco, a fence or underground footer now or hereafter encroaches upon any of the Lots as a result of minor inaccuracies in survey or construction, by design, or due to settlement or movement. Such

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encroaching Improvements installed by Declarant or Builders shall remain undisturbed for so long as the encroachment exists. Any easement for encroachment shall include an easement for the maintenance and use of the encroaching Improvements in favor of the Owner thereof or his designees.

C. Easement to Enter Upon Lots. An easement or easements for ingress and egress in favor of the Association, including the Board or the designee of the Board, to enter upon the Lots for the purposes of fulfilling its duties and responsibilities of ownership, maintenance and/or repair in accordance with the Conservatory Documents, including, by way of example, the making of such repairs, maintenance or reconstruction as are necessary for the Association Property, to maintain, in some cases, an Owner's Lot and to maintain any Lot in the event the Owner thereof fails to do so.

D. Drainage and Irrigation Easement. An easement for drainage, flowage and irrigation over, under and upon the Committed Property, including each of the Lots, in favor of the Association, Club Property Owner, and each of the Owners, including, but not limited to, reasonable rights of access for persons and equipment to construct, install, maintain, alter, inspect, remove, relocate and repair the water Surface Water and Storm Water Management System, flowage pipes and irrigation pipes. There is hereby further reserved for the benefit of Declarant, Club Property Owner, the Association, and their respective agents, employees, successors, and assigns ("Benefited Parties") a perpetual non-exclusive easement over, across and on the rights-of-way of all streets, roads and all unimproved portions of the Association Property and all areas of the Surface Water and Storm Water Management System for access to construct, install, inspect, operate, maintain, repair or replace the Surface Water and Storm Water Management System. By this easement, the Benefited Parties shall have the right to enter upon any portion of the Committed Property, including any Lot, which is a part of the Surface Water and Storm Water Management System, at a reasonable time and in a reasonable manner, to operate, maintain or repair the Surface Water and Storm Water Management System as required by the SJRWMD permit. Additionally, the Benefited Parties shall have a perpetual non-exclusive easement for drainage, stormwater collection, retention and detention over, upon and within the entire Surface Water and Storm Water Management System and all other drainage easements shown on each plat or otherwise reserved, declared or created pursuant to these CC&Rs. No person shall alter the drainage flow of the Surface Water and Storm Water Management System, including buffer areas or swales, without the prior written approval of the SJRWMD.

E. Surface Water and Storm Water Management System Encroachment Easement. An easement for encroachment over, under and upon the drainage easements located within the Lots, as designated on the Plat and Additional Plat, if any, in favor of (i) the Owner of the Lot upon which the drainage easement is located for the existence of any driveway and/or sidewalk or irrigation system or part thereof, and (ii) the Association for reasonable rights of access for persons and equipment to construct, install, maintain, alter, inspect, remove, relocate and repair any driveway and/or sidewalk, or irrigation system or part thereof installed or located thereon. In the event the Club Property Owner or the Association requires access to any Surface Water and Storm Water Management System improvements within a drainage easement located within a Lot upon which any such driveway and/or sidewalk or irrigation system encroaches, the

Association has the obligation, at its own cost and expense, to remove and replace any such encroachment, and to return it to its permitted condition immediately preceding such removal and replacement once access to the drainage easement is no longer required. The flowage easements providing for drainage run between each of the Lots parallel to and over the side lot line thereof, draining from the rear to the front of the Lots.

F. Easements to Serve Additional Property. Declarant hereby reserves for itself and its duly authorized agents, representatives, successors, successors-in-title, assigns, licensees, and mortgagees, a perpetual, nonexclusive easement over the Committed Property for the purposes of enjoyment, use, access, and development of any properties that may be adjacent to the Committed Property from time to time, whether or not such properties are made subject to these CC&Rs. Declarant further agrees that if the easement is exercised for permanent access to such properties and such properties or any portion thereof is not made subject to these CC&Rs, Declarant, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of maintenance of any private roadway and related infrastructure serving such properties. In no event shall this paragraph confer any third party beneficiary rights upon the owner or owners of such adjacent property.

Section 8. ASSIGNMENTS. The easements reserved hereunder may be assigned by Declarant or the Association in whole or in part to any city, county or state government or agency thereof, or any duly licensed or franchised public utility, or any other designee of Declarant. The Owners hereby authorize Declarant and/or the Association to execute, on their behalf and without further authorization, such grants of easement or other instruments as may from time to time be necessary to grant easements over and upon the Committed Property or portions thereof in accordance with the provisions of these CC&Rs.

Section 9. RESERVATION OF EXCLUSIVE EASEMENTS FOR TELECOMMUNICATIONS AND RELATED SERVICES. Notwithstanding anything to the contrary contained in Section 7 of Article IV or elsewhere in the CC&Rs, Declarant hereby reserves to itself, its successors or assigns, the following perpetual exclusive easements in, under, along and across the Committed Property, as covenants running with the Committed Property for the benefit of the Declarant to provide for (a) installation, service, repair and maintenance of equipment and lines to provide telecommunication and other high tech services, including but not limited to, telephone, cable television, internet, monitored alarm system and other data transmission services; and (b) reasonable rights of ingress and egress on, along and across the Lots, for such persons, contractors or other designees of Declarant, its successors and assigns. It is Declarant's intent that the Committed Property and any Additional Property to be added by Declarant will be fully wired for fiber optics to each Home in order to create a technologically advanced and integrated ("SMART") subdivision and Declarant intends to market the Committed Property as such to prospective purchasers. As such, Declarant hereby reserves and retains for the benefit of Declarant, its successors or assigns, the exclusive right to enter into long term contracts with providers of such telecommunication and other high tech services, including without limitation hereby, telephone, cable television, internet, monitored alarm system, fiber optic related communications, and data transmission services as Declarant, its successors or assigns may elect and upon such terms and conditions as Declarant, its successors or assigns deems appropriate in its sole and absolute discretion. Notwithstanding anything to the contrary

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contained in these CC&Rs, to the extent the same shall not conflict with or violate any applicable law or any existing contract or agreement, any provider of such telecommunications and other high tech services that Declarant, its successors or assigns enters into such an agreement with shall be the exclusive and only third party provider of the telecommunications services within the Committed Property that are the subject of such agreement. This exclusivity to the third party provider shall be of no force and effect and inapplicable to the particular service, if there is a default by such provider under the agreement which allows Declarant, its successors or assigns to terminate such agreement or if such agreement has been terminated due to a default. The Declarant, its successors or assigns shall be entitled to compensation for allowing the third party provider use and access of its reserved easements hereunder.

Section 10. CLUB OPERATIONS. Neither Declarant, Association, nor any Owner may exercise their respective rights under any easement reserved in this Article or elsewhere in these CC&Rs in a manner that would materially and adversely impact the operation of the Club Property.

Section 11. TERMINATION OF EASEMENT RIGHTS. Notwithstanding anything in these CC&Rs to the contrary, all easement rights reserved or granted to Declarant over and across a Lot, other than those exclusive easement rights granted in Section 9 of the Article IV herein, unless previously assigned by Declarant, shall terminate on the date on which "Completion of Construction", as defined in Article X, Section 19 of these CC&Rs, has occurred on all Lots. In addition, the easement rights granted or reserved by Declarant hereunder are not to be construed as creating an affirmative obligation to act on the part of Declarant. Provided, however, notwithstanding the possibility that the Declarant and the Club Property Owner may be the same entity from time to time, nothing in this paragraph shall act to terminate easement rights reserved or granted to the Club Property Owner as such easement rights are perpetual.

ARTICLE V

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION; BOARD;
DURATION OF THE ASSOCIATION

Section 1. MEMBERSHIP AND VOTING RIGHTS. Membership in the Association shall be established and terminated as set forth in the Articles. Each Member shall be entitled to the benefit of, and be subject to, the provisions of the Conservatory Documents. The voting rights of the Members shall be as set forth in the Articles.

Section 2. BOARD. The Association shall be governed by the Board which shall be appointed, designated or elected, as the case may be, as set forth in the Articles.

Section 3. DURATION OF ASSOCIATION. The duration of the Association shall be perpetual, as set forth in the Articles.

ARTICLE VI

COVENANT TO PAY ASSESSMENTS; ESTABLISHMENT OF LIENS; COLLECTION OF ASSESSMENTS; COLLECTION BY DECLARANT; CERTAIN RIGHTS OF DECLARANT AND INSTITUTIONAL MORTGAGEES

Section 1. AFFIRMATIVE COVENANT TO PAY ASSESSMENTS. In order to: (i) fulfill the terms, provisions, covenants and conditions contained in the Conservatory Documents; and (ii) maintain, operate and preserve the Association Property for the use, safety, welfare and benefit of the Members and their family members, guests, invitees and lessees, there is hereby imposed upon each Improved Lot and Unimproved Lot, and each Improved Lot Owner and Unimproved Lot Owner, the affirmative covenant and obligation to pay to the Association commencing from and after the Assessment Commencement Date as defined and set forth in Section 6 of Article VII herein, all Assessments, including, but not limited to, the Individual Lot Assessments and Special Assessments. Each Owner, by acceptance of a deed or other instrument of conveyance conveying a Lot, whether or not it shall be so expressed in such deed or instrument, shall be obligated and agrees to pay to the Association all Assessments in accordance with the provisions of the Conservatory Documents.

The following expenses of the Association are hereby declared to be Operating Expenses which the Association is obligated to assess and collect, and which the Owners are obligated to pay as provided herein or as may be otherwise provided in the Conservatory Documents: (1) any and all taxes and tax liens which may be assessed or levied at any and all times against the Association Property or against any and all personal property or Improvements thereon; (2) all charges levied for utilities providing services for the Association Property, such as water, gas, electricity, telephone, cable television, sanitation, sewer, reuse water, and any type of utility or any other type of service charge which is not separately billed to an Owner; (3) the premiums on policies of insurance including, but not limited to, liability, casualty and directors and officers liability insurance for the Association Property; (4) any sums necessary for the maintenance and repair of the Association Property and all Improvements located thereon; (5) administrative and operational expenses; (6) any and all expenses deemed to be Operating Expenses by the Association; (7) fees and costs for the management, maintenance, improvement and beautification of landscaping and stormwater drainage and retention features on the Committed Property; (8) fees and costs for the management, maintenance, improvement and operation of the Utility Systems; (9) operation, maintenance and repair of the Surface Water and Storm Water Management Systems including, but not limited to work within retention areas, drainage structures and drainage easements; (10) reserves for replacements; and (11) fees and costs incurred by the Association in connection with providing Communication Services, as defined in Section 6 of Article VI of these CC&Rs. The Operating Expenses with respect to the Association Property are payable by each Owner to the Association notwithstanding the fact that Declarant may not have as yet conveyed title to the Association Property to the Association.

Section 2. ESTABLISHMENT OF LIENS. Each Assessment against a Lot, together with Interest thereon and costs of collection, including, but not limited to, Legal Fees, shall be the personal obligation of the Owner of such Lot. Any and all Assessments made by the Association in accordance with the provisions of the Conservatory Documents with Interest thereon and costs

of collection, including, but not limited to, Legal Fees, are hereby declared to be a charge and continuing lien upon each Lot against which each such Assessment is made. Said lien shall be effective only from and after the time of the recordation amongst the Public Records of the County of a written, acknowledged statement by the Association setting forth the amount due to the Association as of the date the statement is signed. Upon full payment of all sums secured by that lien, the party making payment shall be entitled to a satisfaction of the statement of lien in recordable form. Notwithstanding anything to the contrary herein contained, in the event an Institutional Mortgagee of record obtains title to a Lot as a result of foreclosure of its first mortgage or deed in lieu of foreclosure, such acquirer of title, its successors or assigns, shall not be liable for the share of Assessments pertaining to such Lot or chargeable to the former Owner thereof which became due prior to the acquisition of title as a result of the foreclosure or deed in lieu thereof, unless the Assessment against the Lot in question is secured by a claim of lien for Assessments that is recorded prior to the recordation of the mortgage which was foreclosed or with respect to which a deed in lieu of foreclosure was given.

Section 3. COLLECTION OF ASSESSMENTS. In the event any Owner shall fail to pay any Assessment, or installment thereof, charged to such Owner within fifteen (15) days after the same becomes due, then the Association, through its Board, shall have any and all of the following remedies to the extent permitted by law, which remedies are cumulative and which remedies are not in lieu of, but are in addition to, all other remedies available to the Association:

- A. To accelerate the entire amount of any Assessment for the remainder of the calendar year notwithstanding any provisions for the payment thereof in installments.
- B. To advance on behalf of the Owner(s) in default funds to accomplish the needs of the Association up to and including the full amount for which such Owner(s) is liable to the Association and the amount or amounts of monies so advanced, together with Interest and all costs of collection thereof, including, but not limited to, Legal Fees, may thereupon be collected by the Association from the Owner(s) and such advance by the Association shall not waive the default.
- C. To file an action in equity to foreclose its lien at any time after the effective date thereof as provided in Section 3 hereinabove. The lien may be foreclosed by an action in the name of the Association in like manner as a foreclosure of a mortgage on real property.
- D. To file an action at law to collect said Assessment plus Interest and all costs of collection thereof, including, but not limited to, Legal Fees, without waiving any lien rights or rights of foreclosure in the Association.
- E. To charge Interest on such Assessment from the date it becomes due, as well as a late charge of One Hundred Dollars (\$100) by the Association to defray additional collection costs.
- F. To suspend the use rights of the Owner(s) in default to the Association Property, subject to the limitations of applicable law and the Notice and Hearing provisions in Article X, Section 1 herein.

G. To suspend the right of the Owner(s) in default to vote on any matter on which Owners have the right to vote if such Owner is delinquent in payment of assessments for more than ninety (90) days.

H. To use the services of a collection agency for collection of delinquent accounts and to charge and impose a lien against the delinquent Owner for such costs. All payments shall be first applied to Interest, administrative late fees, costs, and reasonable attorneys' fees incurred in collection including any incurred in all bankruptcy and probate proceedings, and then to the Assessment payment first due.

Notwithstanding any provision of this Section to the contrary, the Board shall have the right to waive any late fees or Interest that accrue as a result of delinquent payment of Assessments.

Section 4. COLLECTION BY DECLARANT. In the event for any reason the Association shall fail to collect the Assessments, Declarant shall at all times have the right (but not the obligation): (i) to advance such sums as the Association could have advanced as set forth above; and (ii) to collect such Assessments and, if applicable, any such sums advanced by Declarant, together with Interest and costs of collection, including, but not limited to, Legal Fees.

Section 5. RIGHTS OF DECLARANT AND INSTITUTIONAL MORTGAGEES TO PAY ASSESSMENTS AND RECEIVE REIMBURSEMENT. Declarant and any Institutional Mortgagee(s) shall have the right, but not the obligation, jointly or individually, and at their sole option, to pay any of the Assessments which are in default and which may or have become a charge against any Lot(s). Further, Declarant and any Institutional Mortgagee shall have the right, but not the obligation, jointly or individually, and, at their sole option, to pay insurance premiums or fidelity bond premiums or other required items of Operating Expenses on behalf of the Association in the event the same are overdue and when lapses in policies or services may occur. Declarant and any Institutional Mortgagee paying overdue Operating Expenses on behalf of the Association will be entitled to immediate reimbursement from the Association plus Interest and any costs of collection including, but not limited to, Legal Fees, and the Association shall execute an instrument in recordable form to this effect and deliver the original of such instrument to each Institutional Mortgagee who is so entitled to reimbursement and to Declarant if Declarant is entitled to reimbursement.

Section 6. COMMUNICATIONS SYSTEM. The Association shall have the right to enter into an agreement ("Communications Agreement") for telecommunication and other high tech services, including without limitation hereby, telephone, cable television, internet, monitored alarm system, fiber optic related communications, and data transmission services ("Communications Services") for Homes with the provider of telecommunications that enters into an agreement with the Declarant as set forth in Section 9 of Article IV herein. Any and all costs and expenses incurred by the Association under or pursuant to any Communications Agreement(s) entered into by the Association for Communications Service will be assessed against all Improved Lot Owners. It is contemplated that the monitored alarm service portion of the Communications Services may include features in addition to perimeter monitored alarm services such as, but not limited to, a smoke/heat detection system, push button panels for emergency calls or other features. Notwithstanding anything to the contrary contained in these

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CC&Rs, the costs and expenses charged to the Association under the Communications Agreement shall be apportioned equally, but only amongst those Homes with respect to which the Association is being charged under or pursuant to the Communications Agreement except to the extent, if any, that any Owner elects to receive an "Optional Service" (being a service not automatically received by all Owners entitled to receive Communications Service pursuant to the Communications Agreement). Each Owner who receives an Optional Service, if any, shall be responsible for paying for the costs thereof. The foregoing shall in no way obligate Declarant, the Association, their successors or assigns to enter into a Communications Agreement or otherwise provide the Communications Services described in this Section 6.

Section 7. INAPPLICABILITY OF ARTICLE TO CLUB PROPERTY AND CLUB PROPERTY OWNER. Neither the Club Property nor the Club Property Owner is subject to the provisions of this Article VI.

ARTICLE VII

METHOD OF DETERMINING ASSESSMENTS AND ALLOCATION OF ASSESSMENTS

Section 1. DETERMINING AMOUNT OF ASSESSMENTS. The total anticipated Operating Expenses for each calendar year shall be set forth in the budget ("Budget") prepared by the Board as required under the Conservatory Documents. Each Improved Lot and Unimproved Lot shall be assessed its *pro rata* portion of the total anticipated Operating Expenses, exclusive of the Lot Type Maintenance Assessment (as defined below) which shall be the "Base Lot Assessment".

In addition to the Base Lot Assessment, each Lot shall be assessed a portion of the total Operating Expenses associated with the Association's provision of landscape care and maintenance of Lots, which shall be the "Lot Type Maintenance Assessment." The Lot Type Maintenance Assessment shall be based upon the Lot type of Lot, as such Lot type is established in this paragraph: Lots 28-126, 141-193, 222-265, and 296-333, as shown on the Plat, are hereby designated Type "A" Lots, and Lots 1-27, 127-140, 194-221, 266-295, and 334-340, as shown on the Plat, are hereby designated Type "B" Lots. The Declarant reserves the right to re-designate Lots as either Type "A" or Type "B" Lots based on the Declarant's modification of its plan of development for any re-designated Lot. The total anticipated Operating Expenses for each calendar year associated with the Association's provision of landscape care and maintenance of Lots shall be set forth in the Budget and shall be separated into Type A Lot Maintenance Assessments and Type B Maintenance Assessments. Each Lot shall be assessed its *pro rata* portion of either the Type A Lot Maintenance Assessments or the Type B Maintenance Assessments, as applicable. The Base Lot Assessment and the Lot Type Maintenance Assessment applicable to each Lot shall be collectively referred to as the "Individual Lot Assessment."

In addition to the general notice of Board meetings required to be given to all Owners in accordance with Section 720.303, *Florida Statutes*, written notice of the meeting at which the Board shall consider any Special Assessment or Individual Assessment shall be provided to all Owners at least fourteen (14) days before the meeting, which notice shall include a statement that

assessments will be considered at the meeting and the nature of the assessments. Such written notice must be mailed, delivered, or electronically transmitted to the Owners and posted conspicuously on the Committed Property or broadcast on closed-circuit cable television not less than fourteen (14) days prior to the meeting.

Section 2. ASSESSMENT PAYMENTS. Individual Lot Assessments shall be payable quarterly, in advance, on the first day of January, April, July and October of each year, provided, however, at the Board's option, Individual Lot Assessments may be payable monthly. Individual Lot Assessments and the quarterly or monthly installments thereof, may be adjusted from time to time by the Board to reflect changes in the number and status of Improved Lots and Unimproved Lots (thus apportioning all such Assessments and installments thereof among all Lots at the time such installment is due) or changes in the Budget or in the event the Board determines that an Assessment or any installment thereof is either less than or more than the amount actually required. When an Unimproved Lot becomes an Improved Lot during a period with respect to which an Assessment or installment thereof has already been assessed, such Improved Lot shall be deemed assessed the amount of such Assessment or installment thereof which was assessed against Improved Lots in existence at the time of such Assessment, prorated from the date the Lot became an Improved Lot through the end of the period in question. If the payment of such Assessment or installment thereof was due at the time the Lot became an Improved Lot or prior thereto, said prorated amount thereof shall be immediately due and payable. Likewise, the amount paid with respect to such Improved Lot based upon the Lot's status as an Unimproved Lot, prorated from the date the Unimproved Lot became an Improved Lot to the end of the period in question, shall be credited against the amount owed as an Improved Lot.

Section 3. SPECIAL ASSESSMENTS. In addition to the Individual Lot Assessments and other Assessments established pursuant to the Conservatory Documents, the Board, subject to the notice requirements set forth in Section 1 above, may levy at any time a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a capital improvement upon the Association Property, including the necessary fixtures and personal property related thereto, for acquiring Improvements for, or on, the Association Property, for the purpose of covering any insufficiency of assessments to fund the actual monetary needs of the Association over and above the budgeted Assessments, or for any other use or purpose deemed desirable or appropriate by the Board. "Special Assessments" shall also include any other Assessments designated as Special Assessments in the Conservatory Documents and whether or not for a cost or expense which is included within the definition of "Operating Expenses."

Notwithstanding anything to the contrary herein contained, it is recognized and declared that Special Assessments shall be in addition to, and are not part of, any Individual Lot Assessment. Any Special Assessments assessed against Lots and the Owners thereof shall be paid by such Owners in addition to any other Assessments and shall be assessed in the same manner as the Individual Lot Assessment. Special Assessments shall be paid in such installments or in a lump sum as the Board shall, from time to time, determine. Notwithstanding the foregoing, the levying of any Special Assessment after the Turnover Date by the Board shall require the affirmative assent of at least two-thirds (2/3) of all Owners represented in person or by proxy at a meeting called and held in accordance with the Bylaws. Prior to the Turnover

Date, a Declarant controlled Board may make a Special Assessment without such vote of the Owners.

Section 4. LIABILITY OF OWNERS FOR INDIVIDUAL LOT ASSESSMENTS. By the acceptance of a deed or other instrument of conveyance of a Lot, each Owner thereof acknowledges that each Lot and the Owners thereof are jointly and severally liable for their own Individual Lot Assessments and their applicable portion of any Special Assessments, as well as for any and all other Assessments for which they are liable, as provided for herein. Such Owners further recognize and covenant that they are jointly and severally liable with the Owners of all Lots for the Operating Expenses (subject to any specific limitations provided for herein such as, but not limited to, the limitation with respect to matters of Special Assessment and the limitations on the liability of Institutional Mortgagees and their successors and assigns). Accordingly, subject to such specific limitations, it is recognized and agreed by each Owner, for himself and his heirs, executors, successors and assigns, that in the event any Owner fails or refuses to pay his Individual Lot Assessment or any portion thereof, or his respective portion of any Special Assessment or any other Assessment, then the other Owners may be responsible for increased Individual Lot Assessments or Special Assessments or other Assessments due to the nonpayment by such other Owner, and such increased Individual Lot Assessment or Special Assessment or other Assessment can and may be enforced by the Association and Declarant in the same manner as all other Assessments hereunder as provided in the Conservatory Documents.

Section 5. WORKING FUND CONTRIBUTION. A. Each Owner who purchases a Lot from Declarant shall pay to the Association at the time legal title is conveyed to such Owner, a "Working Fund Contribution." The Working Fund Contribution shall be an amount equal to a two months' share of the annual Operating Expenses applicable to such Lot pursuant to the initial Budget (which shall be prepared as if all Lots are Improved Lots and may be different from the Budget in effect at the time of closing). The purpose of the Working Fund Contribution is to assure that the Association will have cash available for initial start-up expenses, to meet unforeseen expenditures and to acquire additional equipment and services deemed necessary or desirable by the Board. Working Fund Contributions may also be used to offset Operating Expenses. Working Fund Contributions are not advance payments of Individual Lot Assessments and shall have no effect on future Individual Lot Assessments, nor will they be held in reserve. To further ensure that the Association will have sufficient cash available to pay for start-up expenses, Operating Expenses, and other expenses, Declarant may from time to time advance to the Association the Working Fund Contribution applicable to any Lot(s) prior to the time legal title to such Lot(s) is conveyed to the Owner(s) thereof. In the event Declarant advances the Working Fund Contribution applicable to any Lot, then, at the time legal title to such Lot is conveyed to the Owner thereof, the Working Fund Contribution to be paid by such Owner to the Association pursuant to this Section 5 shall be paid directly to Declarant in reimbursement of the advance, instead of to the Association.

B. Upon the resale of a Lot from an Owner to a new Owner ("Subsequent Owner"), each Subsequent Owner who purchases such a Lot shall pay to the Association at the time legal title is conveyed to such Subsequent Owner, an "Additional Reserve Fund Contribution." The Additional Reserve Fund Contribution shall be an amount equal to a two months' share of the

annual Operating Expenses applicable to such Lot pursuant to the Budget in effect at the time of closing. All Additional Reserve Fund Contributions shall be deposited upon receipt by the Association in the Association reserve accounts designated by the Board from time to time for acceptance of Additional Reserve Fund Contributions. The purpose of the Additional Reserve Fund Contribution is to assure that the Association reserve accounts will have cash available to meet unforeseen reserve fund expenditures deemed necessary or desirable by the Board. Additional Reserve Fund Contributions may not be used to offset Operating Expenses. Additional Reserve Fund Contributions are not advance payments of Individual Lot Assessments and shall have no effect on future Individual Lot Assessments. If the Subsequent Owner fails to pay the Additional Reserve Fund Contribution on acceptance of title to a Lot as required, the Association shall have the right to demand immediate payment of the unpaid Additional Reserve Fund Contribution. The Additional Reserve Fund Contribution due shall constitute a lien upon the applicable Lot and Home with the same force and effect as liens for Operating Expenses.

Section 6. DATE OF COMMENCEMENT OF ASSESSMENTS; INITIAL ANNUAL ASSESSMENTS. The Assessments for each Lot shall commence on the date ("Assessment Commencement Date") of completion of all streets and roads providing access to the Lot and the extension of the following applicable utilities to the Lot: electricity, water, sewer, gas, telephone and 24-hour security. Assessments for each such Lot shall be adjusted according to the number of months then remaining in the fiscal year of the Association and the number of days then remaining in the month in which such Assessments commence. The initial Assessments for each Lot in each Additional Property shall be set forth in the pertinent Supplemental Declaration.

Section 7. NOTICE PROCEDURES FOR PROPOSED SALE OF LOT(S). In the event of a proposed sale of a Lot by an Owner, other than Declarant, and excluding any sale or transfer pursuant to a decree of foreclosure or pursuant to any proceeding in lieu of foreclosure, Owner shall promptly notify the Association in writing of the proposed sale within five (5) days after executing a purchase and sale agreement and provide the name and address of the proposed purchaser and the estimated closing date for the transaction. The Association shall furnish to the Owner and proposed purchaser a certificate in writing setting forth whether the Assessments have been paid. In addition, the Association shall furnish to the proposed purchaser a copy of the CC&Rs and amendments, if any. The Association shall be entitled to charge and collect a fee from the Owner for processing any proposed sale or transfer of a Lot and such fee shall be in an amount established by the Board from time to time in its sole discretion. In the event that there are unpaid Assessments owed by the Owner, the Association shall be entitled to exercise all rights and remedies available to it for collection of the Assessments as set forth in Section 3 of Article VI herein. The Owner's failure to pay all unpaid Assessments, and accrued interest thereon, if any, before the closing of the sale of Lot may result in the suspension of certain rights and privileges provided to the new Owner to the extent permitted by applicable law. The Association may delegate its obligation to furnish such certificate and its right to collect the fee for providing such service to a management company hired by the Association.

Section 8. SUBORDINATION. The lien of the Assessments provided for by these CC&Rs shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon any of the Lots and held by a commercial or savings bank, trust company, credit union, industrial loan association, insurance company, pension fund, or business trust, including but not limited to

a real estate investment trust, any other lender regularly engaged in financing the purchase, construction, or improvement of real estate, or any assignee of loans made by such lender, or any private or governmental institution or agency which has insured the loan of any such lender, or any combination of any of the foregoing entities; provided, however, that a sale or transfer of any of the Lots pursuant to a decree of foreclosure, or pursuant to any proceeding in lieu of foreclosure, shall not relieve such Lot from liability for any Assessments which thereafter become due, nor from the lien of any subsequent Assessment. Said Assessment liens, however, shall be subordinate to the lien of any such mortgage or mortgages hereafter placed upon the Lots subject to Assessment.

Section 9. SUBSIDY. So long as Declarant pays the subsidy called for in this Section 9, Declarant shall be exempt from the payment of any assessments with respect to Lots owned by Declarant. Declarant covenants and agrees that, until not later than when the Declarant's membership in the Association ceases to exist, Declarant shall pay to the Association, as incurred, the balance of the actual operating deficits (excluding the cost of funding deferred maintenance and reserve accounts) after levying and payment of assessments due from Owners other than Declarant pursuant to assessments levied by the Board pursuant to these CC&Rs. The foregoing to the contrary notwithstanding, Declarant shall not pay more than the assessments that Declarant would have been required to pay if the Declarant owned Lots were not exempt. At any time, Declarant shall be entitled to terminate, by written notice to the Association, Declarant's obligation to pay the operating deficits of the Association. Following termination or expiration of Declarant's subsidy obligations under this paragraph, Declarant shall pay the applicable per-Lot assessment for each then assessable Lot then owned by Declarant prorated for the year in which such payment commences.

Section 10. WAIVER OF USE. No Owner, other than Declarant, may exempt himself from personal liability for Assessments duly levied by the Association. No Owner may release the Lot owned by him from the liens and charges hereof either by waiver of the use and enjoyment of the Association Property and the facilities thereon or by abandonment of his Home.

Section 11. INAPPLICABILITY OF ARTICLE TO CLUB PROPERTY AND CLUB PROPERTY OWNER. Neither the Club Property nor the Club Property Owner is subject to the provisions of this Article VII.

ARTICLE VIII

ARCHITECTURAL CONTROL BOARD

Section 1. MEMBERS OF THE ACB. The Architectural Control Board, sometimes referred to in these CC&Rs as the "ACB," shall comprise no less than three (3) members. The initial members of the ACB shall be designated by Declarant, its successors or assigns. The Declarant and its successors or assigns shall retain the sole right to appoint and remove all members of the ACB until the date on which a Home is initially constructed on each Lot located within the Committed Property and any Additional Property to be added by the Declarant. After completion of construction of a Home on each Lot located within the Committed Property and

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any Additional Property to be added by Declarant, or at such earlier time as Declarant may, at its sole option elect, the Board shall have the right to appoint a simple majority of the members of the ACB, and the Declarant shall have the right to appoint all remaining members of the ACB. Each new member of the ACB appointed by the Board shall hold office until such time as he has resigned or has been removed or his successor has been appointed, as provided herein. The Board shall have the sole right to appoint and remove all members of the ACB other than those designated by the Declarant. The entity responsible for appointing a majority of the members of the ACB, whether the Declarant, its successors or assigns, or the Board, shall have the right to change the number of members on the ACB so long as there are at least three (3) members.

The members of the ACB need not be Members of the Association or representatives of Members, and may, but need not, include architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Board. The Board may establish reasonable fees to be charged by the ACB for review of applications hereunder and may require such fees to be paid in advance prior to review of any application. In addition, the ACB may retain architects, engineers or other professionals to assist in the review of any application, and the ACB may charge any reasonable fees incurred for such assistance to the applicant. The ACB may also collect from applicants, prior to the commencement of any work, a deposit amount refundable in its entirety to the applicant upon applicant having complied in a satisfactory and timely manner with the requirements of ARTICLE VIII, Section 2 of these CC&Rs. The ACB shall be empowered to retain such portion of said deposit as it, in its sole discretion, shall deem appropriate as penalty for applicant's failure to fulfill such requirements either completely or in a timely fashion. Said deposit may also be retained as compensation for any damage that owner's construction may have caused to adjacent property. Owners shall remain responsible for said damage to the extent that retained deposit does not fully cover said damages.

Section 2. REVIEW OF PROPOSED CONSTRUCTION.

A. No Improvements, including, by way of example and not of limitation, Homes, accessory structures, boat docks or boat houses, exterior lighting fixtures, brick pavers, stamped concrete, concrete flatwork, basketball goals, buildings, fences, walls, pools, roofs, gutters or rain spouts, antennae, aerials, microwaves, reception devices, mailboxes, external enclosures (including entry screen and patio screen enclosures), or landscaping (including hedges and massed plantings) shall be commenced, erected, installed, altered, modified, painted, planted, or maintained on the Committed Property, including the Lots, nor shall any canopy, shutters, or window coverings be attached to or placed upon outside walls or roofs of any Home or building by any Owner other than Declarant, unless such Improvements have been reviewed by and received the written approval of the ACB (not the Association) in accordance with Paragraph B hereinbelow. Any Owner desiring to make Improvements shall submit three (3) complete sets of plans and specifications prepared by an architect, landscape architect, engineer or other person determined by the ACB to be qualified, showing the nature, dimensions, materials and location of the same.

B. The ACB shall approve proposed plans and specifications submitted for its approval only if it deems that the construction, alterations or additions contemplated will not be

detrimental to the appearance of the surrounding area of the Committed 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. The ACB may also issue rules or guidelines setting forth procedures for the submission of plans and specifications. If the proposed construction, alterations or additions are to a portion of the Improvements which the Association is obligated to maintain, said approval shall also be subject to approval by the Board. The ACB may condition its approval of proposed plans and specifications in such a manner as it deems appropriate and may require the submission of additional information prior to approving or disapproving such plans.

C. The ACB may, but shall not be required to, establish design and construction guidelines and review procedures (the "Guidelines") to provide guidance to Owners and builders. The Guidelines shall not be the exclusive basis for decisions hereunder and compliance with the Guidelines shall not guarantee approval of an application. Any such Guidelines may contain general provisions applicable to all of the Committed Property, as well as specific provisions which vary from one portion of the Committed Property to another depending upon the location, type of construction or use, and unique characteristics of the property. It is intended that a portion of any Guidelines that is enacted will provide flexibility and substantial discretion to the ACB and that plans will be reviewed on a case-by-case basis with a variety of architectural styles and finishes being approved for use. Any Guidelines adopted pursuant to this Section may be amended at any time without notice in the sole discretion of the entity adopting it.

Declarant makes no representation, express or implied, to any Owner or any other party whatsoever with regard to the Guidelines, including, without limitation, the compliance of the Guidelines with building codes and other requirements, rules, laws and ordinances of federal, state and local governmental and quasi-governmental bodies and agencies relating to the construction of Improvements on the Lots and other activities engaged in by Featured Builders from time to time, the appropriateness of use of any substance or material required by the Guidelines, the compliance of the Guidelines with any licensing requirements imposed by federal, state and local governmental and quasi-governmental bodies and agencies from time to time, and the failure or alleged failure of the Guidelines to comply with any industry standard or any other reasonable standard or practice with respect to the work or materials used in the construction of Homes and other activities engaged in by Owners or Featured Builder within the Committed Property in accordance with the Guidelines.

D. The ACB shall have forty-five (45) days after delivery of all required materials to approve or reject any such plans and, if not approved within such forty-five (45) day period, such plans shall be deemed rejected, provided that, in any event, no such addition, construction or alteration shall be made by any Owner which is detrimental to or inconsistent with the harmony, appearance or general scheme of the Committed Property as a whole.

E. All Home plan submissions to the ACB shall include the site layout, exterior elevations, exterior materials and colors, landscaping, all existing trees measuring three (3) inches or more in diameter at the base, drainage, lighting, irrigation, and other features of the proposed construction, as required by the Guidelines and as applicable, and shall provide evidence that the applicant is utilizing a builder that has been approved by the Declarant and

included on the "Featured Builder List" promulgated by Declarant from time-to-time in its sole, absolute, and unfettered discretion, as a condition to the commencement of construction of any improvements on any Lot. The Guidelines shall include minimum landscaping requirements for each Lot, based on Lot type or otherwise, and such provisions may require the expenditure of a minimum level of funds toward the landscaping and hardscaping of each Lot.

F. Declarant shall provide a list of Featured Builders to all Owners. To qualify as a Featured Builder, a builder must satisfy certain criteria and requirements established by Declarant, including, without limitation, the execution and delivery of a Featured Builder master agreement between Declarant and the Featured Builder, which may provide for the payment to Declarant by the Featured Builder of fees in Declarant's sole, absolute and unfettered discretion. However, the criteria and requirements established by Declarant for a builder to qualify as a Featured Builder are solely for Declarant's protection and benefit and are not intended to, and shall not be construed to, benefit any Owner or any other party whatsoever. Declarant makes no representation, express or implied, to any Owner or any other party whatsoever with regard to the Featured Builders, including, without limitation, the existence, nature and extent (including coverage amounts and deductibles) of insurance policies that may be maintained by the Featured Builders from time to time, the solvency or financial status of the Featured Builders from time to time, the nature and amount of any bonds that may be maintained by the Featured Builders from time to time, the performance (or the ability to perform) by the Featured Builders of their contractual obligations (including any contractual obligations of any of the Featured Builders in favor of any Owner or any other party whatsoever), the compliance by the Featured Builders with building codes and other requirements, rules, laws and ordinances of federal, state and local governmental and quasi-governmental bodies and agencies relating to the construction of Improvements on the Lots and other activities engaged in by the Featured Builders from time to time, the use of any substance or material, including, without limitation, any stucco or synthetic material by the Featured Builders in connection with the construction of Improvements, the compliance by any Featured Builder with any licensing requirements imposed by federal, state and local governmental and quasi-governmental bodies and agencies from time to time, including, without limitation, the maintenance of any required builder's and/or contractor's license, and the failure or alleged failure of any Featured Builder to comply with any industry standard or any other reasonable standard or practice with respect to such Featured Builder's work or materials used in the construction of houses and other activities engaged in by such Featured Builder within the Committed Property. Furthermore, neither Declarant, nor the officers, directors, members, employees, agents or affiliates of Declarant, shall have any responsibility whatsoever for any sum that any Owner or any other party may deposit with a Featured Builder, including, without limitation, any earnest money or other deposit that any Owner may deliver to a Featured Builder. The selection of a Featured Builder by an Owner shall be conclusive evidence that such Owner is independently satisfied with regard to any and all concerns such Owner may have about the Featured Builder's work product and/or qualifications. Owners shall not rely on the advice or representations of Declarant or the officers, directors, members, employees, agents or affiliates of Declarant in that regard.

The Declarant shall retain the sole right to include builders on the "Featured Builder List" until the completion of the initial construction of all Homes on all Unimproved Lots, or at such earlier time as the Declarant may, at its sole option, elect in a written instrument executed by

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Declarant and recorded in the Official Records of Flagler County, Florida. Thereafter, the provisions of this subsection shall automatically terminate and be of no force or effect. Until then, this subsection shall not be amended without the prior written consent of Declarant. Declarant's approval hereunder of any builder shall not be construed as approval or certification of the competency of the builder or adequacy of the Improvements built by such builder, it being agreed that Owner shall hold Declarant harmless from all claims and liabilities arising from use of the builder.

G. All plans and specifications submitted shall comply with (i) any Guidelines that may be in effect, (ii) all other recorded covenants, conditions and restrictions applicable to the property, including, but not limited to, the CC&Rs, (iii) all requirements of any development order concerning the property and (iv) all laws and permits. The ACB may require the submission of such additional information as it deems necessary to consider any application. All plans that are submitted concerning the proposed construction of a Home shall include information concerning the extent of proposed clearing of the site, landscaping materials to be utilized and the amount of impervious surface to be incorporated. In addition to the ACB's own standards of review and the general scheme of development applicable to the Committed Property at such time, all plans will be required to comply with applicable permits, regulations, development agreements and other conditions that may be imposed. It is contemplated that any Guidelines which are adopted will incorporate these and other standards that may be applicable from time to time.

H. In its review of proposed plans and specifications of landscape design and materials for lake lots, including, but not limited to, any massed plantings, the ACB will take into consideration the benefit to the Committed Property as a whole, including the effect on lake views from the perspective of the Lot and the Club Property, both at the proposed time of installation and at the time when maximum growth shall have occurred.

I. The ACB shall, from time to time, establish hurricane shutter specifications which comply with the applicable building code, and establish permitted colors, styles, and materials for hurricane shutters. Subject to the provisions of this Article, the ACB shall approve the installation or replacement of hurricane shutters conforming with the ACB's specifications. All shutters shall remain open unless and until a storm watch or storm warning is announced by the National Weather Center or other recognized weather forecaster. An Owner or occupant who plans to be absent during all or any portion of the hurricane season must prepare their Home prior to his or her departure by designating a responsible firm or individual to care for the Home should a hurricane threaten the Home or should the Home suffer hurricane damage, and furnishing the Association with the name(s) of such firm or individual. Such firm or individual shall be subject to the approval of the Association.

J. Notwithstanding any provision in this Article to the contrary, the approval of the ACB shall not be required for any additions, changes or alterations within any Homes if such additions, changes or alterations are not visible from the outside of such Homes. All changes and alterations shall be subject, independently, to all applicable governmental laws, statutes, ordinances, rules and regulations.

K. Notwithstanding anything to the contrary herein contained, no construction, reconstruction, addition or alteration by Declarant shall require the prior approval or any certificate of consent of the ACB.

L. Notwithstanding anything to the contrary herein contained, no construction, reconstruction, addition or alteration by Club Property Owner upon the Club Property shall require the prior approval or any certificate of consent of the ACB.

Section 3. MEETINGS OF THE ACB. The ACB shall meet from time to time as necessary to perform its duties hereunder. The ACB may from time to time, by resolution unanimously adopted in writing, designate an ACB 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 ACB, except the granting of variances pursuant to Section 8 hereinbelow. In the absence of such designation, the vote of any two (2) members of the ACB shall constitute an act of the ACB.

Section 4. NO WAIVER OF FUTURE APPROVALS. The approval of the ACB of any plans and specifications or drawings for any work performed or proposed shall not be deemed to constitute a waiver of any right to withhold approval or consent to any identical or similar proposal subsequently or additionally submitted for approval or consent, whether such submission is by that applicant or another applicant. Similarly, the denial of approval by the ACB of any plans and specifications or drawings for any work done or proposed shall not be deemed to constitute a waiver of any right to approve or consent to any identical or similar proposal subsequently or additionally submitted for approval or consent, whether such submission is by that applicant or another applicant.

Section 5. COMPENSATION OF MEMBERS. The members of the ACB may, but need not, receive compensation for services rendered, in addition to reimbursement for expenses incurred by them in the performance of their duties hereunder as determined by the Board from time to time pursuant to Section 1 above.

Section 6. 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 submitting party shall give written notice of completion to the ACB.

B. Within thirty (30) days after written notice of completion, the ACB or its duly authorized representatives may inspect such Improvement. If the ACB finds such work was not done in substantial compliance with the approved plans, it shall notify the submitting party in writing of such noncompliance within such thirty (30) day period, specifying the particulars of noncompliance, and shall require the submitting party to remedy such noncompliance.

C. If upon the expiration of fifteen (15) days from the date of such notification the submitting party shall have failed to remedy such noncompliance, notification shall be given to the Board in writing of such failure. Upon such notice, the Board shall determine whether there is a noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If noncompliance exists, the submitting party shall remedy or remove the same within

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a period of not more than thirty (30) days from the date of announcement of the Board's ruling. If the submitting party does not comply with the Board's ruling within such period, the Board, at its option, may remove the Improvement, remedy the noncompliance, or proceed in court to enjoin compliance and the submitting party shall reimburse the Association, upon demand, for all expenses incurred in connection therewith, including Interest and Legal Fees. If such expenses are not promptly repaid by the submitting party to the Association, the Board shall levy an Assessment against such submitting party for reimbursement, and said Assessment shall constitute a lien upon the applicable Lot and Home with the same force and effect as liens for Operating Expenses.

D. If, for any reason, notification is not given to the submitting party of acceptance within thirty (30) days after receipt of said written notice of completion from the submitting party, the Improvement and/or alteration shall be deemed to be in compliance with said approved plans.

Section 7. NON-LIABILITY OF ACB MEMBERS. Neither the ACB nor any member thereof, nor its duly authorized ACB representative, nor Declarant, 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 of the ACB's duties hereunder, unless due to the willful misconduct or bad faith of a member and only that member shall have any liability. The ACB's review and approval or disapproval of plans submitted to it for any proposed Improvement shall be based solely on considerations of the overall benefit or detriment to the community as a whole. The ACB shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes. Furthermore, approval by the ACB of any plans and specifications does not excuse any Owner from also receiving approvals as required by all applicable governmental agencies.

Section 8. VARIANCE. The ACB may authorize variances from compliance with any of the architectural provisions of these CC&Rs or any Supplemental Declaration, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may require. If such variances are granted, no violation of the covenants, conditions and restrictions contained in these CC&Rs or any Supplemental Declaration shall be deemed to have occurred with respect to the Improvements for which the variance was granted.

Section 9. INAPPLICABILITY OF ARTICLE TO CLUB PROPERTY AND CLUB PROPERTY OWNER. Notwithstanding anything to the contrary in these CC&Rs, neither the Club Property nor the Club Property Owner shall be subject to the provisions of this Article VIII.

ARTICLE IX

MAINTENANCE AND REPAIR OBLIGATIONS

This Article sets forth the various maintenance and repair obligations of the Association and the Owners with respect to the Committed Property and the Lots and Association Property located therein. Such maintenance and repair obligations may be different than those provided in any Supplemental Declarations.

Section 1. BY THE DECLARANT.

A. The Declarant shall operate, maintain and repair the Surface Water and Storm Water Management System constructed over, through and upon the Committed Property. There is hereby reserved in favor of the Declarant the right to enter upon the Association Property and the Lots for the purpose of operating, maintaining, repairing, and replacing the Surface Water and Storm Water Management System over, through and upon the Committed Property. The Association shall be responsible for all costs associated with all cleaning, maintenance, repairs and replacement of any portion of the Surface Water and Storm Water Management System necessary to maintain the system in its original condition and use. The Declarant may sell, donate, or otherwise devise the Surface Water and Storm Water Management System to the Association, the Club Property Owner, or another entity authorized by law to own and operate the Surface Water and Storm Water Management System, including but not limited to governmental entities or a community development district established and operated under the laws of Florida. Any such conveyance of the Surface Water and Storm Water Management System must comply with SJRWMD permits and rules.

B. The Surface Water and Storm Water Management System within the Committed Property, including all tracts and easements included therein as shown on the Plat, or Additional Plat, if any, are initially owned by Declarant. Maintenance of the Surface Water and Storm Water Management System shall mean the exercise of practices which allow the Surface Water and Storm Water Management System to provide drainage, water storage, conveyance and other surface water or stormwater management capabilities as permitted by the SJRWMD. Any repair or reconstruction of the Surface Water and Storm Water Management System shall be as permitted or, if modified, as approved in writing by the SJRWMD. The SJRWMD shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in these CC&Rs which relate to the maintenance, operation and repair of the Surface Water and Storm Water Management System.

C. The Declarant, until it assigns such obligations to Association or Club Property Owner, shall also be responsible for compliance with any Consumptive Use Permit(s) regarding the Committed Property issued by the St. Johns River Water Management District in matters regarding the consumptive use of water within and upon the Committed Property.

D. Declarant hereby reserves an easement in favor of the Declarant itself, the Club Property Owner, and the Association throughout all portions of the Committed Property as may be necessary for the purpose of accessing, maintaining and administering the Surface Water and Storm Water Management System, including, but not limited to the lakes, and no Owner shall do

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any act which may interfere with the performance by the Declarant of its obligations hereunder. The Declarant reserves the right to transfer the Surface Water and Storm Water Management System and the lakes and/or its responsibility to maintain and administer the Surface Water and Storm Water Management System and the lakes to the Association, the Club Property Owner, or another entity, in whole or in part, subject to obtaining prior written approval of the SJRWMD. In the event that Declarant transfers the Surface Water and Storm Water Management System and the lakes and/or its responsibility to maintain and administer the Surface Water and Storm Water Management System and the lakes, the Declarant and such entity shall enter into such agreements necessary to provide for the future ownership, maintenance, and administration of same.

E. SJRWMD shall have the right to take enforcement action, including an action for an injunction and penalties against the Association to compel it to correct any outstanding problems with the Surface Water and Storm Water Management System including, but not limited to, the maintenance, operation and repair of the Surface Water and Storm Water Management System facilities or in mitigation or conservation areas under the responsibility or control of the Association.

DECLARANT, CLUB PROPERTY OWNER, AND THE ASSOCIATION SHALL NOT BE OBLIGATED TO PROVIDE SUPERVISORY PERSONNEL, INCLUDING, BUT NOT LIMITED TO, LIFEGUARDS, FOR THE LAKES. ANY INDIVIDUAL USING THE LAKES SHALL DO SO AT HIS/HER OWN RISK AND HEREBY HOLDS THE DECLARANT, CLUB PROPERTY OWNER, AND THE ASSOCIATION HARMLESS FROM AND AGAINST ANY CLAIM OR LOSS ARISING FROM SUCH USE.

EACH OWNER, BY THE ACCEPTANCE OF TITLE TO HIS/HER LOT, ACKNOWLEDGES THAT THE LAKES ARE DEEP AND ARE DANGEROUS.

EACH OWNER AND THE ASSOCIATION SHALL JOINTLY AND SEVERALLY INDEMNIFY, DEFEND, AND HOLD HARMLESS THE DECLARANT, THE CLUB PROPERTY OWNER, THE CLUB, THEIR AFFILIATES, SUCCESSORS AND ASSIGNS AND THEIR RESPECTIVE MEMBERS, PARTNERS, SHAREHOLDERS, OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, AGAINST AND IN RESPECT OF, AND TO REIMBURSE THE DECLARANT, THE CLUB PROPERTY OWNER, THE CLUB, THEIR AFFILIATES, SUCCESSORS AND ASSIGNS AND THEIR RESPECTIVE MEMBERS, PARTNERS, SHAREHOLDERS, OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, ON DEMAND FOR, ANY AND ALL CLAIMS, DEMANDS, LOSSES, COSTS, EXPENSES, OBLIGATIONS, LIABILITIES, DAMAGES, RECOVERIES AND DEFICIENCIES, INCLUDING, BUT NOT LIMITED TO, INTEREST, PENALTIES, ATTORNEY AND PARALEGAL FEES AND DISBURSEMENTS (EVEN IF INCIDENT TO ANY APPEALS), THAT THE DECLARANT, THE CLUB PROPERTY OWNER, THE CLUB, THEIR AFFILIATES, SUCCESSORS AND ASSIGNS AND THEIR RESPECTIVE MEMBERS, PARTNERS, SHAREHOLDERS, OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, SHALL INCUR OR SUFFER, WHICH ARISE OUT OF, RESULT FROM OR RELATE TO ANY CLAIM RELATING TO THE USE OF THE LAKES BY OWNERS OR THEIR FAMILY, GUESTS, AND INVITEES.

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F. The Declarant shall initially operate, maintain and repair the Utility Systems, if any, constructed over, through and upon the Committed Property. There is hereby reserved in favor of the Declarant the right to enter upon the Association Property and the Lots for the purpose of operating, maintaining, repairing, and replacing the Utility Systems over, through and upon the Committed Property. The Association shall be responsible for all costs associated with all cleaning, maintenance, repairs and replacement of any portion of the Utility System necessary to maintain the system in its original condition and use. The Declarant may sell, donate, or otherwise devise the Utility System to the Association, the Club Property Owner, or another entity authorized by law to own and operate the Utility System, including but not limited to governmental entities or a community development district established and operated under the laws of Florida. It is initially anticipated that all utility services, except for reuse water, will be provided by public or private utility providers other than Declarant, Association, or Club Property Owner. It is further anticipated that the reuse water system will include two (2) separate meters: one meter for the Association Property and Lots and one meter for the Club Property. The Association shall be responsible for payment of all fees associated with providing the metered reuse water to the Association Property and Lots and the Club Property Owner shall be responsible for payment of all fees associated with providing the metered reuse water to the Club Property Owner.

Section 2. BY THE ASSOCIATION.

A. The Association, at its expense, shall be responsible for the maintenance, repair and replacement of all of the Improvements and facilities located upon the Association Property and as otherwise provided herein. Unless otherwise specifically provided in the Conservatory Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance includes responsibility for repair and replacement as necessary to maintain the property to a level consistent with the Community-Wide Standard.

Should any incidental damage be caused to any Home by virtue of the Association's failure to maintain the Association Property as herein required or by virtue of any work which may be performed or caused to be performed by the Association in the maintenance, repair or replacement of any Association Property, the Association shall, at its expense, repair such incidental damage. The Association shall not, however, be responsible for any loss of use, any hardship, an Owner's time or any other consequential or punitive damages.

B. The Association shall operate, maintain and repair a water sprinkler system constructed over, through and upon the Association Property as it shall deem appropriate. The Association shall be responsible for the costs of operation and maintenance of such sprinkler system, including any monthly fees and other costs of water usage and the cost of repair or replacement to all or any part thereof. There is hereby reserved in favor of the Association the right to enter upon the Association Property and any and all Lots for the purpose of operating, maintaining, repairing and replacing a water sprinkler system over, through and upon the Association Property.

C. To the extent that such authority is delegated or conveyed to the Association by the Declarant, the Association shall operate, maintain and repair the Surface Water and Storm Water Management System constructed over, through and upon the Committed Property. There

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is hereby reserved in favor of the Association the right to enter upon the Association Property and the Lots for the purpose of operating, maintaining, repairing, and replacing the Surface Water and Storm Water Management System over, through and upon the Committed Property. The Association shall be responsible for all costs associated with all cleaning, maintenance, repairs and replacement of any portion of the Surface Water and Storm Water Management System necessary to maintain the system in its original condition and use. The Association may sell, donate, or otherwise devise the Surface Water and Storm Water Management System to another entity authorized by law to own and operate the Surface Water and Storm Water Management System, including but not limited to governmental entities or a community development district established and operated under the laws of Florida. Any such conveyance of the Surface Water and Storm Water System must comply with SJRWMD permits and rules.

D. The Association is specifically empowered to own, operate and maintain Utility Systems as defined in these CC&Rs, and to make assessments as provided in these CC&Rs and the Articles of Incorporation and Bylaws to provide for ownership, maintenance and operation of the Utility Systems, including but not limited to assessments to provide for a reasonable reserve fund for operation and maintenance of such Utility Systems. The Association may sell, donate, or otherwise devise the Utility Systems to another entity authorized by law to own and operate the Utility Systems, including but not limited to utilities certificated by the Florida Public Service Commission, governmental entities, or a community development district established and operated under the laws of Florida; provided, however, such sale, donation or devise must first be approved in writing by the Club Property Owner, which may withhold its approval in its sole, absolute, and unfettered discretion.

E. The Association shall be responsible for the maintenance, repair and replacement of all private streets and sidewalks located upon the Association Property and the Lots and there is hereby reserved in favor of the Association the right to enter upon any and all parts of the Association Property and Lots for such purpose. To the extent permitted by the appropriate governmental authority, the Association may, but shall not be obligated to, also provide maintenance of all City, County, district or municipal properties which are located within or in a reasonable proximity of the Committed Property to the extent that their deterioration or unkempt appearance would adversely affect the appearance of the Committed Property, including the right to enhance the landscaping in any public right of way.

F. The Association shall be responsible for the maintenance, repair and replacement of any street lights located in the Committed Property.

G. In order to create a consistent appearance within the Committed Property (exclusive of the Club Property), including all landscaped and grassed areas on all Lots up to the perimeter edge of the Home, the Declarant, or Declarant's assigns, shall approve all initial landscape design, and shall perform all initial installation of landscaping on a Lot, all of which Declarant or its assigns shall accomplish in accordance with the Guidelines, as detailed in such document and as amended from time to time. The Association will provide for all ongoing horticultural maintenance and care, with the intent of sustaining, at a minimum, the landscape quality level as established by the Declarant at the time of initial installation. All maintenance and care performed in accordance with this paragraph shall be consistent with the Community-

Wide Standard. Landscape maintenance and care will include: scheduling, checking and repairing of irrigation systems; periodic fertilization of trees, shrubs and turf areas; spraying of turf and landscape areas as required to control disease or insects; pruning and trimming of trees and shrubs; mowing; edging; landscape bed maintenance and other related activities at a service level and frequency determined by the Association. Related landscape service specifications will be outlined by the Association and updated periodically in accordance with the ongoing maintenance and care needs within the Committed Property.

H. As landscaping and turf areas within the Committed Property (exclusive of the Club Property), including all landscaped and turf areas on all Lots up to the perimeter of the edge of the Home, require periodic renewal or replacement due to age, effects of weather, disease, decline or other natural conditions that affect appearance and viability of plant material over time, the Association shall have the authority to arrange for plant replacement as a regular Operating Expense. The intent is to sustain, at a minimum, the landscape quality level as established by the Declarant at the time of intitial installation. In the event that an Owner desires to amend the landscape or hardscape package initially installed on the Owner's Lot, Owner shall be required to seek the approval of the ACB and, upon such approval, shall be required to utilize the services of a builder or landscape service company approved by Declarant.

I. The Association, by action of its Board, may make minor and insubstantial alterations and Improvements to the Association Property having a cost not in excess of Ten Thousand Dollars (\$10,000). All other alterations and Improvements must first be approved by at least two-thirds (2/3) of all Owners represented in person or by proxy at a meeting called and held in accordance with the Bylaws. No alteration or Improvement may be made to the Association Property which materially and adversely affects the rights of the Owner of any Lot to the enjoyment of his Lot or the Association Property unless the Owner and all mortgagees holding recorded mortgages on such Lot consent thereto in writing; provided, however, the Declarant and the Club Property Owner may alter or improve the Association Property in accordance with their rights under these CC&Rs.

J. All expenses incurred by the Association in connection with the services and maintenance described in Paragraphs A through I, inclusive, are Operating Expenses, all payable by each Owner under the provisions of these CC&Rs concerning Assessments; provided, however, certain of such expenses shall be characterized as Lot Type Maintenance Assessments as provided in Article VII herein. Should the maintenance, repair or replacement provided for in Paragraphs A through I of this Section 1 be caused by the negligence of or misuse by an Owner, his/her family, guests, servants, invitees, or lessees, such Owner shall be responsible therefor, and the Association shall have the right to levy an Assessment against such Owner's Lot and said Assessment shall constitute a lien upon the appropriate Lot and Home with the same force and effect as liens for Operating Expenses.

K. The Association has a reasonable right of entry upon any Lot to make emergency repairs and to do other work reasonably necessary for the proper maintenance and operation of the Committed Property. The Board may establish rules and regulations regarding the Association's entry upon the Lots.

L. The Association has a reasonable right of entry upon any Lot to remove or take

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down any hurricane shutters that remain on a Home after the threat of a hurricane has ended. The Board may establish rules and regulations regarding the Association's entry upon the Lots for such purposes.

M. The Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, (a) if such maintenance is required by these CC&Rs, (b) if the Board determines that such maintenance is necessary or desirable to maintain the standards for the Committed Property promulgated by the ACB or to cause compliance with these CC&Rs, or (c) if the maintenance is requested by an Owner.

Section 3. BY THE OWNERS.

A. Except to the extent the Association is responsible therefore as provided in Section 1 above, the Owner of each Lot must keep and maintain his/her Lot and the Improvements thereon, including equipment and appurtenances, in good order, condition and repair, and must perform promptly all maintenance and repair work within his Home which, if omitted, would adversely affect the Committed Property, the other Owners or the Association and its Members. The Owner of each Lot shall be responsible for any damages caused by a failure to so maintain such Lot and Home. The Owners' responsibility for maintenance, repair and replacement shall include, but not be limited to, all of the physical structure constructed in, upon or below the Lot, physical items attached or connected to such structure that run beyond the boundary line of the Lot which exclusively service or benefit the Lot and Home. The painting, caulking and maintenance of the exterior surface of the walls, doors, windows and roof of the physical structure of the Home shall be performed by the Owner, and the exterior surface of such walls, doors, windows and roof shall at all times be maintained in a good and serviceable condition with no damage or other defect therein by the Owner. The Owner of a Lot further agrees to pay for all utilities, such as telephone, cable television, water (including water associated with irrigation if such water is not being provided by the Association), sewer, sanitation, electric, etc., that may be separately billed or charged to his/her Home. The Owner of each Lot shall be responsible for insect and pest control within the Lot and Home. Whenever the maintenance, repair and replacement of any items which an Owner is obligated to maintain, repair or replace at his own expense is occasioned by any loss or damage which may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of making such maintenance, repair or replacement, except that the Owner shall be, in said instance, required to pay such portion of the costs of such maintenance, repair and replacement as shall, by reason of the applicability of any deductibility provision of such insurance or otherwise, reduce the amount of the insurance proceeds applicable to such maintenance, repair or replacement.

B. The Owner of each Lot shall maintain, repair and replace as needed any fencing on his/her Lot, clean, maintain and repair the driveway on his/her Lot, and keep the sidewalk located on his/her Lot clean and free from any impediments to pedestrian traffic.

C. If a Home is damaged by fire or other casualty, its Owner shall properly and promptly restore it to at least as good a condition as it was before the casualty occurred. Any such work shall be in accordance with the original plans and specifications of the Home unless

otherwise authorized by the ACB and shall be otherwise subject to all provisions of Article VIII hereof.

D. Each Owner shall keep his Home insured in an amount not less than its full insurable value against loss or damage by fire or other hazards. Evidence of such coverage shall be furnished to the Association promptly upon the Board's request.

E. If an Owner fails to comply with the foregoing provisions of this Section 2, the Association may proceed in court to enjoin compliance. Further, if the failure to comply relates to the Owner's obligations to maintain insurance, the Association shall be entitled, although not obligated, to obtain the required coverage itself and to levy on the offending Owner an Assessment equal to the cost of premiums, and any such Assessment shall constitute a lien upon the applicable Lot and Home with the same force and effect as a lien for Operating Expenses.

F. If a failure to comply with the provisions of this Section relates to the Owner's obligation to maintain his/her Home or any other area required to be maintained by the Owner, then, in addition to the exercise of all other remedies, the Association or Declarant shall have the right but not the obligation, upon fifteen (15) days written notice, to enter the property of the Owner for the purpose of performing the maintenance referred to, set forth and described in the notice. The determination of whether an Owner is failing to properly maintain and care for the property for which he has the maintenance responsibility shall be determined in the sole discretion of the Association or Declarant. Further, the Association shall be entitled, but not obligated, to perform such maintenance and care itself and to levy on the offending Owner an Assessment equal to the cost of performing such maintenance and any such Assessment shall constitute a lien upon the applicable Lot and Home with the same force and effect as a lien for Operating Expenses.

Section 4. DAMAGE TO BUILDINGS. The Owner of any Home which has suffered damage shall apply to the ACB for approval for reconstruction, rebuilding, or repair of the Improvements therein. The ACB shall grant such approval only if, upon completion of the work, the exterior appearance will be substantially similar to that which existed prior to the date of the casualty; provided, however, nothing shall prohibit the ACB from approving reconstruction, rebuilding, or repair that would result in an exterior appearance not substantially similar to that which existed prior to the date of the casualty if an Owner pursues the complete ACB application, review and approval process set forth in Article VIII of these CC&Rs. If the obligation for repair falls upon the Association, the ACB approval will not be required prior to the commencement of such work, so long as the exterior appearance will be substantially similar to that which existed prior to the date of the casualty.

The owner or owners of any damaged building, the Association, and the ACB shall be obligated to proceed with all due diligence hereunder and the responsible parties shall commence reconstruction within three (3) months after the damage occurs and complete reconstruction within one (1) year after the damage occurs, unless prevented by causes beyond his or its reasonable control.

Declarant shall be exempt from the provisions of this Section 4, provided that any such reconstruction, rebuilding or repairs made by the Declarant shall be consistent, as to the

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exterior appearance, with the Improvements as they existed prior to the damage or other casualty, unless otherwise approved by the ACB.

ARTICLE X

USE RESTRICTIONS

All of the Committed Property (except the Club Property as it is not subject to the rules and regulations adopted by the Association) shall be held, used, and enjoyed subject to the following limitations and restrictions, and any and all additional rules and regulations which may, from time to time, be adopted by the Association:

Section 1. ENFORCEMENT. Failure of an Owner to comply with any limitations or restrictions in these CC&Rs or any of the Conservatory Documents or with any rules and regulations promulgated by the Association shall be grounds for action which may include, without limitation, an action to recover sums due for damages, injunctive relief, or any combination thereof.

In addition to all other remedies, the Association may suspend, for a reasonable period of time, the rights of any or all of an Owner or an Owner's tenants, guests or invitees to use Association Property and facilities; may suspend the voting rights of an Owner if such Owner is delinquent in payment of assessments for more than ninety (90) days; and may levy reasonable fines against any Owner or any Owner's lessee, guest or invitee for failure of such Owner, his family, guests, invitees, lessees or employees to comply with any of the Conservatory Documents, provided applicable laws and the following procedures are adhered to:

A. **Notice.** The Association shall notify the Owner in writing of the noncompliance and set forth the corrective action to be taken. A fine or suspension of use rights may not be imposed without notice of at least fourteen (14) days to the Owner sought to be fined or suspended and an opportunity for a hearing before a 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. If the committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed. At the Association's option, any fine may be levied on a daily basis in the event of a continuing violation without the necessity of a new hearing and without any limitation on the amount of such fine.

B. **Hearing.** Should the Owner still be in noncompliance, the noncompliance shall be presented to the Board after which the Board shall hear reasons why a fine should or should not be imposed. A written decision of the Board shall be submitted to the Owner, as applicable, not later than twenty-one (21) days after said meeting.

C. **Payment.** A fine shall be paid not later than thirty (30) days after notice of the imposition of the fine.

D. **Fines.** A fine shall be treated as an Assessment subject to the provisions of the collection of Assessments as otherwise set forth herein, and shall constitute a lien upon the

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applicable Lot and Home, with the same force and effect as a lien for Operating Expenses. All monies received from fines shall be allocated as directed by the Board, subject always to the provisions of these CC&Rs.

E. Failure to Pay Assessments. Notice and Hearing as provided in Subparagraphs A and B above shall not be required with respect to the imposition of suspension of use rights or fines upon any Owner because of such Owner's failure to pay Assessments or other charges when due.

F. Access. Suspension of use rights to Association Property shall not impair the right of an Owner or tenant of a Lot and/or Home to have vehicular and pedestrian ingress to and egress from such Lot and/or Home, including, but not limited to, the right to park.

Section 2. NUISANCES. No obnoxious or offensive activity shall be carried on or about the Lots or in or about any Improvements, Homes, or on any portion of the Committed Property nor shall anything be done therein which may be or become an unreasonable annoyance or a nuisance to any Owner. No use or practice shall be allowed in or around the Homes which is a source of annoyance to Owners or occupants of Homes or which interferes with the peaceful possession or proper use of the Homes or the surrounding areas. No loud noises or noxious odors shall be permitted in any Improvements, Homes or Lots. Without limiting the generality of any of the foregoing provisions, no horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes), noisy or smoky vehicles, unlicensed off-road motor vehicles or any items which may unreasonably interfere with television or radio reception of any Owner shall be located, used or placed on any Lot, or exposed to the view of other Owners without the prior written approval of the Board.

Section 3. PARKING AND VEHICULAR RESTRICTIONS. Parking upon the Committed Property shall be restricted to the drive and garage located upon each Lot and designated parking areas within the Association Property. Unless otherwise designated for parking, no parking on the streets or swales is permitted. No Owner shall keep any vehicle on any Lot which is deemed to be a nuisance by the Board. No Owner shall conduct repairs taking more than twenty-four (24) hours (except in an emergency or except within the garage of the Home with the garage door closed) or restorations of any motor vehicle, boat, trailer, or other vehicle upon any Lot. No commercial vehicle, trailer, boat or boat trailer may be parked or stored on the Committed Property except in the garage of a Home located upon a Lot. No bus or tractor-trailer or any other truck larger than a full-size pickup truck may be parked on the Committed Property, except temporarily as in the case of a moving van or other such vehicle necessary to provide service to an Owner and with the exception of any vehicles necessary for any construction activity being performed by or on behalf of Declarant.

Section 4. NO IMPROPER USE. No improper, offensive, hazardous or unlawful use shall be made of any Home nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to any person using any portion of the Committed Property. No activity shall be conducted in any Home that involves the production or distribution by any means, whether electronic or otherwise, of pornographic, adult, nude or sexually oriented or explicit materials, content or entertainment. All valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereover shall be observed. Violations of laws, SOLICITORS, 59039, 00001, 100788155.14, Conservatory - Declaration of CCRs

orders, rules, regulations or requirements of any governmental agency having jurisdiction thereover relating to any Home or Lot shall be corrected by, and at the sole expense of, the Home's or Lot's owner.

Section 5. LEASES. No portion of a Home (other than an entire Home) may be rented. Single-family homes may be rented for no less than one (1) month and no more than once per year. Declarant reserves the right to place different leasing restrictions on Additional Property submitted to these CC&Rs. All leases shall provide that the Association shall have the right to terminate the lease upon default by the tenant in observing any of the provisions of these CC&Rs, the Articles, the Bylaws, applicable rules and regulations, or of any other agreement, document or instrument governing the Lots or Homes. The owner of a leased Home shall be jointly and severally liable with his tenant for compliance with the Conservatory Documents and to the Association to pay any claim for injury or damage to property caused by the negligence of the tenant. Every lease shall be subordinated to any lien filed by the Association whether before or after such lease was entered into.

Section 6. ANIMALS AND PETS. Only common domesticated household pets may be kept on any Lot or in a Home, but in no event for the purpose of breeding or for any commercial purposes whatsoever. No other animals, livestock, reptiles or poultry of any kind shall be kept, raised, bred or maintained on any portion of the Committed Property. Permitted pets shall only be kept subject to and in accordance with such rules and regulations as shall be promulgated from time to time by the Board. Under no circumstances may a pit bull be permitted on the Committed Property. Any pet must be carried or kept on a leash when outside of a Home or fenced-in area. No pet shall be kept tied up outside of a Home or in any screened porch or patio, unless someone is present in the Home. An Owner shall immediately pick up and remove any solid animal waste deposited by his pet on the Committed Property. An Owner is responsible for the cost of repair or replacement of any Association Property damaged by his pet. Each Owner who determines to keep a pet thereby agrees to indemnify the Association and Declarant and hold them harmless against any loss or liability of any kind or character whatsoever arising from or growing out of his having any animal on the Committed Property.

Section 7. WILDLIFE. SUBSTANTIAL WILDLIFE MAY EXIST WITHIN THE COMMITTED PROPERTY, INCLUDING, BUT NOT LIMITED TO GOPHER TORTOISES, ALLIGATORS, ARMADILLOS, FISH, SNAKES, SQUIRRELS, AND RACCOONS. SUCH WILDLIFE MAY EXIST BOTH IN AREAS DESIGNATED AS SPECIAL PRESERVATION AREAS AND THROUGHOUT THE COMMITTED PROPERTY, SOME OF WHICH WILDLIFE MAY BE DANGEROUS. NO OWNERS, RESIDENTS, OR THEIR GUESTS SHALL FEED, HARASS, HARM, PURSUE, HUNT, SHOOT, WOUND, KILL, TRAP, CAPTURE, OR COLLECT ANY WILDLIFE WITHIN THE COMMITTED PROPERTY. FISHING ACTIVITIES UNDERTAKEN CONSISTENT WITH THESE CC&RS SHALL BE EXEMPT FROM THIS PARAGRAPH. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, BIRD FEEDERS MAY BE LOCATED IN THE REAR OF A LOT.

Section 8. ADDITIONS AND ALTERATIONS. No Home shall be enlarged by any addition thereto or to any part thereof, and no Owner shall make any improvement, addition, or alteration to the exterior of his Home, including, without limitation, the painting, staining, or varnishing of the exterior of the Home, including doors, garage doors, driveways and walkways, without the prior written approval of (i) the ACB as set forth in Article VIII of these CC&Rs, which approval may be withheld for purely aesthetic reasons, and (ii) all applicable governmental entities.

Section 9. INCREASE IN INSURANCE RATES. No Owner may engage in any action which may reasonably be expected to result in an increase in the rate of any insurance policy or policies covering or with respect to any portion of the Committed Property not owned by such Owner.

Section 10. SLOPES AND TREES. No Owner may engage in any activity which will change the slope or drainage of a Lot. No additional trees are permitted to be planted on the Committed Property without the prior written consent of Declarant for as long as Declarant owns a Lot, and thereafter without the prior written consent of the ACB.

Section 11. SIGNS. No sign, display, poster, or other advertising device of any kind may be displayed in public view from any portion of any Lot, building, vehicle, or other Improvement in the Committed Property without the prior written consent of the Board. Signs, regardless of size, used by Declarant, its successors or assigns, for advertising during the construction and sale period of the Committed Property or other communities developed and/or marketed by Declarant or its affiliates and other signs authorized by Declarant shall be exempt from this Section. Such sign or signs as Declarant may be required to erect under the terms of an Institutional Mortgage shall be exempt from this Section.

Section 12. TRASH AND OTHER MATERIALS. No rubbish, trash, garbage, refuse, or other waste material shall be kept or permitted on the Lots and/or Association Property, or other portions of the Committed Property, except in sanitary, self-locking containers located in appropriate areas, and no odor shall be permitted to arise therefrom so as to render the Committed Property or any portion thereof unsanitary, offensive, detrimental or a nuisance to Owners or to any other property in the vicinity thereof or to its occupants. No clothing or other household items shall be hung, dried, or aired in such a way as to be visible from the Association Property or another Lot. No stripped vehicles, lumber or other building materials, grass, tree clippings, metals, scrap, automobile pieces or parts, refuse, or trash shall be stored or allowed to accumulate on any portion of the Committed Property (except when accumulated during construction by Declarant, during construction approved by the ACB, or when accumulated by the Association for imminent pick-up and discard).

Section 13. TEMPORARY STRUCTURES. No tent, shack, shed or other temporary building or Improvement, other than separate construction and sales trailers to be used by Declarant, its agents and contractors, for the construction, service and sale of the Committed Property or other communities, shall be placed upon any portion of the Committed Property, either temporarily or permanently. No trailer, motor home or recreational vehicle shall be: (a) used as a residence, either temporarily or permanently, or (b) parked upon the Committed Property.

Section 14. OIL AND MINING OPERATIONS. No oil drilling, oil development operations, oil refining, boning or mining operations of any kind shall be permitted upon or on any Lot nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

Section 15. SEWAGE DISPOSAL. No individual sewage disposal system shall be permitted on any part of the Committed Property, provided that a central sewage disposal system is being operated in accordance with the requirements of the governmental regulatory body having jurisdiction over said central system.

Section 16. WATER SUPPLY. No individual water supply system shall be permitted on any part of the Committed Property, provided that a central water supply system is being operated in accordance with requirements of the governmental body having jurisdiction over said central system, except that wells are permitted for the irrigation of landscaping only, provided that a stain tank is installed in conjunction with the irrigation well.

Section 17. FENCES. Any fence placed upon any Lot must be approved by the ACB, as provided in Article VIII hereof, prior to installation. In no event may a fence be placed in the area between the front of a Home and the Street, Drive, Road or Roadway at the front of the Lot on which the Home is situated. The Owner assumes complete responsibility to maintain the fence. In the event the ACB approves the installation of a fence, it shall also have the right to require installation of landscaping, also subject to the ACB's approval, at the time the fence is installed.

Notwithstanding that an Owner has obtained the approval of the ACB to install a fence or landscape materials, as provided hereinabove, such installation shall be at the Owner's sole risk so long as Declarant has not yet begun or is engaged in the construction of a Home on an adjacent Lot. In the event such construction activity on an adjacent Lot causes damage to or destruction of such Owner's fence or landscape materials or any part thereof, the Owner on whose Lot the fence and/or landscaping has been damaged shall be required, at the Owner's expense, to repair or replace such fence and/or landscape materials in conformance with the requirements of the ACB's approval of the initial installation of the fence and/or landscape materials and Declarant shall have no liability for any such damage or destruction. Such repair or replacement shall commence as soon as construction on the adjacent Lot has been completed and shall be pursued with due diligence. For purposes of this paragraph, the term "landscape materials" shall include landscape materials located on or adjacent to any property line of a Lot, including, by way of example and not of limitation, hedges, shrubs and trees, whether associated with a fence or not.

In addition, the installation of any fence placed upon any Lot is subject to easements which run with the land. In the event the grantee of any such easement which runs with the land (i.e., FPL), its successors and/or assigns, requires the removal of any fence upon the Lot, then the Owner of said Lot shall, at the Owner's sole cost and expense, immediately remove the fence. The Owner of a Lot in installing any fence upon the Lot shall comply with all valid laws, zoning ordinances and regulations of the city and County governmental bodies, as applicable, in addition to the ACB approval required by Article VIII hereof

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Section 18. ANTENNAE AND SATELLITE DISHES. No exterior antennas, aerials, satellite dishes, or other apparatus for the transmission or reception of television, radio, satellite, or other signals of any kind may be allowed on the Committed Properties (excluding the Club Property), except (i) as may be provided by the Declarant, the Ginn Lifestyle Company, or the Board for the benefit and use of the Committed Properties; (ii) if such apparatus is completely contained within the Home so as not to be visible from outside the Home; (iii) if such apparatus is specifically covered by 47 C.F.R. Part 1, Subpart S, Section 1.4000, as amended, promulgated under the Telecommunications Act of 1996, as amended from time to time, and approved for installation by the ACB, or (iv) that one such apparatus measuring no more than twenty-four (24) inches in diameter may be affixed to the exterior of a Home in a location designated by the ACB for the installation of such apparatus, or, if the ACB is unable to designate an appropriate installation location, on the Owner's Home in the best location that allows for acceptable reception yet maximum aesthetic compatibility with the surrounding environment. The Board shall have the right to grant easements from time to time across the Committed Property to facilitate the installation of the apparatus in the most aesthetically compatible location on the Lot. If an Owner elects to avail himself of section (iv) or (v) in the prior sentence, the Owner will be required to paint the apparatus to match the exterior paint color of the Home, as applicable, if such painting does not void any warranty on the apparatus. In addition, the Board may adopt rules requiring plants to be placed around the apparatus or some other means of obscuring the apparatus from the view of other owners or persons on the ground. No electrical or other equipment may be operated on the Committed Property which interferes with television signal reception. The Board is empowered to adopt rules governing the types of antennae, and restrictions relating to safety, location and maintenance of antennae. The Board, subject to the provisions of 47 C.F.R. Part 1, Subpart S, Section 1.4000, as amended, promulgated under the Telecommunications Act of 1996, as amended from time to time may adopt and enforce reasonable rules limiting installation of permissible dishes or antennae to locations not visible from the street or neighboring properties, and integrated with a Home and surrounding landscape, to the extent that installation of the apparatus and the reception of an acceptable signal would not be unlawfully impaired by such rules. Antennae shall be installed in compliance with all federal, state and local laws and regulations, including zoning, land use and building regulations. The provisions of this Section are intended to protect residents from unreasonable interference with television reception, electronic devices, and the operation of home appliances, which is sometimes caused by the operation of ham radios, CB base stations or other high-powered broadcasting equipment.

Section 19. CONSTRUCTION REQUIREMENT/REPURCHASE RIGHTS. A.

Construction and completion of any and all Improvements shall be performed and completed by Owner at its sole cost and expense in substantial conformance, in all material respects, with the plans approved by the ACB ("Approved Plans") therefore, by a builder on the Featured Builder List.

B. For purposes of this Section, "Completion of Construction" shall have occurred only upon the satisfaction of the following conditions: (i) the Improvements, including, without limitation, all equipment, fittings and fixtures and all exterior painting, landscaping, patios and driveways required to be installed pursuant to the Approved Plans, shall have been substantially

completed and installed in substantial conformance, in all material respects, with the Approved Plans therefore, as certified by the architect, engineer, or architectural or engineering firm responsible for the creation of the Approved Plans; (ii) permanent certificate(s) of occupancy for the Improvements shall have been issued by the appropriate governmental authorities to Owner, and a copy thereof delivered to Declarant, and all other certificates, licenses, permits, authorizations, consents and approvals necessary for the full use and occupancy of the Improvements for their intended purposes shall have been issued by the appropriate governmental authority to Owner, and a copy thereof delivered to Declarant; and (iii) Owner shall have caused to be delivered to Declarant a written certificate from its architect or engineer (the "**Completion Certificate**") to the effect that the construction of the Improvements, including, without limitation, all equipment, fittings and fixtures required to be installed pursuant to the Approved Plans, have been substantially completed and installed in substantial conformance, in all material respects, with the Approved Plans and in accordance with all applicable laws relating to the construction of the Improvements, and that direct connection has been made to all abutting public utilities (including water, electricity, storm and sanitary sewer and telephone).

C. For purposes of this Section, "**Commencement of Construction**" or "**Commence Construction**" shall mean that (a) a building permit has been issued for the Home by the appropriate jurisdiction; (b) construction of the Home has physically commenced beyond site preparation; and (c) the Home's foundation or slab has been inspected by the ACB.

D. **Declarant's Repurchase Rights.**

1. Declarant shall have the right to repurchase ("**Repurchase**"), unless specifically waived or modified in writing by Declarant, any Unimproved Lot without a Home located on it upon the failure of the Owner to Commence Construction within twenty-four (24) months after the Assessment Commencement Date as defined in and provided for by Section 6 of Article VII herein or upon the Owner's failure to attain Completion of Construction with respect to the Home on the Lot within eighteen (18) months after the expiration of the aforementioned twenty-four (24) month period. Notwithstanding anything herein to the contrary, in no event shall the initial twenty-four (24) month period be deemed to commence until the City issues a notice of satisfactory completion of infrastructure for the Lot or such other approval or consent that would permit the City to issue a building permit for a Home. The time periods established in this paragraph shall not be tolled by the further conveyance of the Lot from the initial Owner to a subsequent Owner.

2. Such time periods for Commencement of Construction and Completion of Construction may be extended by Declarant in its sole discretion with respect to any Unimproved Lot by recorded instrument or by contract. In the event that Declarant exercises its right to Repurchase an Unimproved Lot due to failure to timely (i) Commence Construction or (ii) attain Completion of Construction in accordance with this section, the repurchase price ("**Repurchase Price**") shall equal eighty percent (80%) of the purchase price paid by the then current Owner plus the actual cost of improvements made to such Lot by or on behalf of such Owner and its successors-in-title, if any. Such costs shall be documented by invoices submitted to Declarant and shall not include any interest charges, other loan fees or carrying charges, costs associated

with the repurchase, attorneys' fees, personal expenses of Owner or its successors-in-title. In order to exercise its Repurchase rights under this subsection (the "Exercise"), Declarant shall deliver its written notice of Exercise to Owner, together with Declarant's calculation of the Repurchase Price. Such notice shall be given no later than one hundred twenty (120) days following the expiration of either the period to Commence Construction or the period to achieve Completion of Construction, as applicable. The failure of Declarant to exercise its right to Repurchase because of an Owner's failure to timely achieve Commencement of Construction or Completion of Construction shall not be deemed a waiver of Declarant's right to Repurchase. The failure of Declarant to insist upon strict compliance by an Owner with the time frames set forth in this subsection or to exercise its right to Repurchase against an Owner shall not be deemed a waiver of Declarant's right to Repurchase against any other Owner.

3. The closing on the Repurchase pursuant to this subsection shall take place within thirty (30) days after the Declarant's notice above. Owner shall transfer the Lot by a deed in the same form (including warranties) and containing only those title exceptions as were contained in the original deed executed by Declarant to the initial Owner of the Lot. Owner shall be obligated to pay any and all outstanding assessments or other charges due and owing under these CC&Rs and shall cure or cause to be cured all title defects or exceptions not existing at the time of the transfer of the Lot to the initial Owner of the Lot by Declarant. Real estate ad valorem taxes and prepaid assessments shall be prorated as of the date of closing. All expenses related to any such repurchase shall be paid by the Owner. In the event that there are insufficient closing proceeds to cover all of the Owner's obligations pursuant to these CC&Rs (the unpaid amounts hereinafter, the "Deficiency"), Declarant shall have the right but not the obligation to take the Home subject to such liens which are not paid from the closing proceeds and to obtain and record a judgment against the Owner in the amount of the Deficiency which amount shall bear interest from the date of closing until paid.

4. Declarant's Repurchase rights under this subsection are subordinate and junior to all rights of Institutional Mortgagees. Declarant shall have no right of Repurchase in the event of a foreclosure or proceedings in lieu of foreclosure; however, upon the transfer of title to the Home as a result of such foreclosure or proceedings in lieu of foreclosure, the Home will be subject to all of the provisions of these CC&Rs, including the provisions of this subsection. Notwithstanding anything herein to the contrary, upon the earlier to occur of: (i) the issuance of the final certificate of occupancy by the controlling governmental authority with respect to a the Home, or (ii) ten (10) years after the date these CC&Rs is recorded in the Public Records, the Declarant's right to Repurchase provided for in this subsection shall expire and be of no further force or effect.

Section 20. DECLARANT EXEMPTION. Declarant may undertake the work of constructing Homes and Improvements upon the Committed Property and may undertake the work of constructing other buildings upon adjacent land or other property being developed or marketed by Declarant or its affiliates. The completion of that work and the sale, rental and other transfer of Homes is essential to the establishment and welfare of the Committed Property as a residential community. In order that such work may be completed and a fully occupied community established as rapidly as possible, neither the Owners, the Association, nor the ACB shall do anything to interfere with Declarant's and/or Builder's activities.

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Section 21. TIMESHARE OR INTERVAL OWNERSHIP PROGRAM. Declarant, in its discretion, may, subject to any City requirements, subject certain Homes to a timeshare plan, fractional plan, exchange program or club, or travel or vacation club comprised of a trust, corporation, cooperative, limited liability company, partnership, equity plan, non-equity plan, membership program, or any such other similar programs, structures, schemes, devices or plans of any kind whereby the right to exclusive use of the Home rotates among multiple owners or members of the program on a fixed or floating time schedule over a period of years, by Supplemental Declaration. Such Supplemental Declaration may include provisions applicable only to such Homes and Owners thereof, including, but not limited to provisions governing houseguests, exchange of use rights, rental of Homes, and requirements for membership in the Club. No timeshare plans, fractional plans, exchange programs or clubs, or travel or vacation clubs comprised of a trust, corporation, cooperative, limited liability company, partnership, equity plan, non-equity plan, membership program, or any such other similar programs, structures, schemes, devices or plans of any kind (a) shall be created, established, operated or maintained with respect to the Committed Property or the Lots, (b) shall acquire or accommodate a Home or Lots, and (c) shall not be permitted to incorporate a Home or Lot into such entity, program, structure, scheme, device or plan, except by the Declarant or except with the prior written authorization from the Declarant, which authorization may be given or withheld in the Declarant's sole and absolute discretion, and which authorization shall be evidenced by a Supplemental Declaration executed by the Declarant, recorded in the Public Records, and containing a reference to these CC&Rs and this Section.

Section 22. APPLICABILITY OF ARTICLE. The restrictions and limitations set forth in this Article X shall not apply to the Club Property Owner, Declarant, Lots owned by the Declarant, or to the Club Property; however, Declarant and Club Property Owner shall each be entitled to injunctive relief for any actual or threatened interference with their respective rights under this Article X in addition to whatever remedies at law to which they might be entitled. Although the Club Property is not subject to this Article, it is specifically recognized that the Club Property Owner and the Club Property are benefited by the compliance of the Committed Property (exclusive of the Club Property) with the provisions of this Article. The Club Property Owner is empowered to bring an action for specific performance or other appropriate legal action against any Owner that fails to comply with the Owner's obligations under this Article X.

DAMAGE OR DESTRUCTION TO ASSOCIATION PROPERTY

Damage to or destruction of all or any portion of the Association Property shall, notwithstanding any provision in these CC&Rs to the contrary, be handled as follows:

A. If insurance proceeds are sufficient to effect total restoration of damaged or destroyed Association Property, then the Association shall cause such Association Property to be repaired and reconstructed substantially as it previously existed.

B. If insurance proceeds are insufficient to effect total restoration, and the cost of restoration exceeds such proceeds by Twenty-Five Thousand Dollars (\$25,000.00) or less, then the Association shall cause the Association Property to be repaired and reconstructed substantially as it previously existed and the difference between the insurance proceeds and the

actual cost shall be levied as a Special Assessment proportionately against each of the Lots in accordance with the provisions of Articles VI and VII herein.

C. If the insurance proceeds are insufficient to effect total restoration and the cost of restoration of the Association Property exceeds said proceeds by over Twenty-Five Thousand Dollars (\$25,000.00), then by the written consent or vote of a majority of the voting interests, they shall determine whether: (a) to rebuild and restore either: (i) in substantially the same manner as the Improvements existed prior to the damage or destruction; or (ii) in a manner less expensive, and in the event of (i) or (ii) to raise the necessary rebuilding and restoration funds by levying pro rata restoration and construction Special Assessments against all Lots; or (b) to not rebuild and to retain available insurance proceeds. In the event it is decided that the damaged or destroyed Association Property shall not be rebuilt, the remains of any structure or structures shall be torn down and hauled away, so as not to be a safety hazard or visual nuisance, and the land shall be fully sodded and landscaped or otherwise treated in an attractive manner. Notwithstanding anything contained herein to the contrary, any decision not to rebuild or to rebuild in a manner which would result in a change in the Improvements on the Association Property shall not be effective without the prior written approval of Declarant as long as Declarant owns any portion of the Committed Property.

D. Each Owner shall be liable to the Association for any damage to the Association Property not fully covered or collected by insurance which may be sustained by reason of the negligence or willful misconduct of said Owner or of his family, lessees, invitees and guests, both minors and adults.

E. In the event that the repairs and replacements were paid for by any Special Assessments as well as insurance proceeds and regular Assessments, then, if after the completion of and payment for the repair, replacement, construction or reconstruction there shall remain any excess in the hands of the Association, it shall be presumed that the monies disbursed in payment of any repair, replacement, construction and reconstruction were first disbursed from insurance proceeds and regular Assessments and any remaining funds shall be deemed to be the remaining Special Assessments which shall be returned to the Owners by means of a *pro rata* distribution in accordance with the collection of such Special Assessments.

ARTICLE XII

INSURANCE AND CONDEMNATION

The Association shall purchase and maintain the following insurance coverages subject to the following provisions, and the cost of the premiums therefor shall be a part of the Operating Expenses:

Section 1. CASUALTY INSURANCE. Property and casualty insurance in an amount equal to the then full replacement cost, exclusive of land, foundation, excavation and other items normally excluded from such coverage, of all Improvements and personal property which are owned by the Association and now or hereafter located upon the Association Property, which insurance shall afford protection against such risks, if any, as shall customarily be covered with

respect to areas similar to the Association Property in developments similar to the Committed Property in construction, location and use.

Section 2. PUBLIC LIABILITY INSURANCE. A comprehensive policy of public liability insurance naming the Association and, until Declarant no longer owns any Lot, Declarant as named insureds thereof insuring against any and all claims or demands made by any person or persons whomsoever for personal injuries or property damage received in connection with, or arising from, the operation, maintenance and use of the Association Property and any Improvements located thereon, and for any other risks insured against by such policies with limits of not less than One Million Dollars (\$1,000,000.00) for damages incurred or claimed by any one person for any one occurrence; not less than Three Million Dollars (\$3,000,000.00) for damages incurred or claimed by more than one person for any one occurrence; and for not less than Fifty Thousand Dollars (\$50,000.00) property damage per occurrence with no separate limits stated for the number of claims. The Association may also obtain worker's compensation insurance and other liability insurance including, but not limited to, insurance for lawsuits related to employment contracts in which the Association is a party, as it may deem desirable.

Section 3. FIDELITY COVERAGE. Adequate fidelity coverage to protect against dishonest acts of the officers and employees of the Association and the Board and all others who handle and are responsible for handling funds of the Association shall be maintained in the form of fidelity bonds, which requirements shall be reasonably determined by the Board.

Section 4. DIRECTORS' COVERAGE. Adequate directors' and officers' liability coverage, which coverage shall be effective from and after the date the Association is created.

Section 5. OTHER INSURANCE. The Board may obtain such other forms of insurance as the Board may determine and in such coverage amounts as the Board shall determine to be required or beneficial for the protection or preservation of the Association Property and any improvements now or hereafter located thereon or in the best interests of the Association and/or its officers and directors.

Section 6. CANCELLATION OR MODIFICATION. All insurance policies purchased by the Association shall provide that they may not be canceled (including for nonpayment of premiums) or substantially modified without at least ten (10) days prior written notice to the Association and to each first mortgage holder, if any, named in the mortgage clause.

Section 7. FLOOD INSURANCE. If determined appropriate by the Board or if required by an Institutional Mortgagee, a master or blanket policy of flood insurance covering the Association Property, if available under the National Flood Insurance Program, shall be purchased, which flood insurance shall be in the form of a standard policy issued by a member of the National Flood Insurers Association, and the amount of the coverage of such insurance shall be the lesser of the maximum amount of flood insurance available under such program, or one hundred percent (100%) of the current replacement cost of all buildings and other insurable property located in the flood hazard area.

Section 8. CONDEMNATION. In the event the Association receives any award or payment arising from the taking of any Association Property or any part thereof as a result of the exercise

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of the right of condemnation or eminent domain, the net proceeds thereof shall first be applied to the restoration of such taken areas and improvements thereon to the extent deemed advisable by the Board and approved by at least two-thirds (2/3) of the total voting interests, and the remaining balance thereof, if any, shall then be distributed pro rata to Owners and mortgagees of Lots as their respective interests may appear.

Section 9. 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 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 of said persons, but only to the extent that such insurance proceeds are received in compensation for such loss.

ARTICLE XIII

GENERAL PROVISIONS

Section 1. CONFLICT WITH OTHER CONSERVATORY DOCUMENTS. In the event of any conflict between the provisions hereof and the provisions of the Articles and/or Bylaws and/or rules and regulations promulgated by the Association, the provisions of these CC&Rs shall control.

Section 2. NOTICES. Any notice or other communication required or permitted to be given or delivered hereunder shall be deemed properly given and delivered upon the mailing thereof by United States mail, postage prepaid, to: (i) each Owner, at the United States address of the person whose name appears as the Owner on the records of the Association at the time of such mailing and, in the absence of any specific address, at the address of the Home owned by such Owner; (ii) the Association, certified mail, return receipt requested, at One Hammock Beach Parkway, Palm Coast, Florida 32137, or such other address as the Association shall hereinafter notify Declarant and the Owners of in writing; and (iii) Declarant, certified mail, return receipt requested, at One Hammock Beach Parkway, Palm Coast, Florida 32137, or such other address or addresses as Declarant shall hereafter notify the Association of in writing, any such notice to the Association of a change in Declarant's address being deemed notice to the Owners.

Section 3. ENFORCEMENT. The covenants and restrictions herein contained may be enforced by Declarant (so long as Declarant holds an equitable or legal interest in any Lot, Home and/or portion of the Committed Property), the Club Property Owner, the Association, any Owner and any Institutional Mortgagee holding a mortgage on any portion of the Committed Property in any judicial proceeding seeking any remedy recognizable at law or in equity, including damages, injunction or any other form of relief against any person, firm or entity violating or attempting to violate any covenant, restriction or provision hereunder. The failure by any party to enforce any such covenant, restriction or provision herein contained shall in no event be deemed a waiver of such covenant, restriction or provision or of the right of such party to thereafter enforce such covenant, restriction or provision. The prevailing party in any such litigation shall be entitled to all costs thereof including, but not limited to, Legal Fees.

Section 4. INTERPRETATION. The provisions of these CC&Rs shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community and for the maintenance of recreational facilities and Association Property. Article, Section and Paragraph captions, headings and titles inserted throughout these CC&Rs are intended as a matter of convenience only and in no way shall such captions, headings or titles define, limit or in any way affect the subject matter or any of the terms and provisions thereunder or the terms and provisions of these CC&Rs.

Whenever the context so requires or permits, any pronoun used herein may be deemed to mean the corresponding masculine, feminine or neuter form thereof, and the singular form of any nouns and pronouns herein may be deemed to mean the corresponding plural form thereof and vice versa. The term "include" and similar terms (e.g., includes, including, included, comprises, comprising, such as e.g., and for example, when used as part of a phrase including one or more specific items, are used by way of example and not limitation.

Section 5. SEVERABILITY. In the event any of the provisions of these CC&Rs shall be deemed invalid by a court of competent Jurisdiction, said judicial determination shall in no way affect any of the other provisions hereof, which shall remain in full force and effect, and any provisions of these CC&Rs deemed invalid by a court of competent jurisdiction by virtue of the term or scope thereof shall be deemed limited to the maximum term and scope permitted by law. In the event that any court should hereafter determine that any provision of these CC&Rs is in violation of the rule of property known as the "rule against perpetuities" or any other rule of law because of the duration of a time period, such provision shall not thereby become invalid, but instead the duration of such time period shall be reduced to the maximum period allowed under such rule of law, and in the event the determination of the duration of such time period requires measuring lives, such measuring life shall be that of the incorporator of the Association.

Section 6. CERTAIN RIGHTS OF DECLARANT. Notwithstanding anything to the contrary herein contained, no Improvements constructed or installed by Declarant shall be subject to the approval of the Association or the Owners or the provisions and requirements of these CC&Rs, although it is the intent of Declarant to create a community with a common scheme of development. Notwithstanding the other provisions of these CC&Rs, Declarant reserves for itself, and Declarant and its nominees shall have, the right to enter into and transact on the Committed Property any business necessary to consummate the sale, lease or encumbrance of Homes or real property within or outside the Committed Property, including, but not limited to, the right to maintain models and a sales and/or leasing office, a construction office and/or a service office, place signs, employ sales, leasing, construction and service personnel, use the Association Property and show Homes, and Declarant further reserves the right to make repairs to the Association Property and to carry on construction activity for the benefit of the Committed Property. Declarant, and its nominees, may exercise the foregoing rights without notifying the Association. Any such models, sales and/or leasing office, construction office, service office, signs and any other items pertaining to such sales, leasing, construction or service efforts shall not be considered a part of the Association Property and shall remain the property of Declarant. This Section 6 may not be suspended, superseded or modified in any manner by any amendment to these CC&Rs unless such amendment is consented to in writing by Declarant. This right of use and transaction of business as set forth herein and the other rights reserved by

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Declarant in the Conservatory Documents may be assigned in writing by Declarant in whole or in part. For the purposes of this Section 6, the term "Declarant" shall include any "Lender" which has loaned money to Declarant to acquire or construct Improvements upon the Committed Property, or its successors and assigns if such Lender, its successors or assigns, acquires title to any portion of the Committed Property as a result of the foreclosure of any mortgage encumbering any portion of the Committed Property securing any such loan to Declarant, or acquires title thereto by deed in lieu of foreclosure. The rights and privileges of Declarant as set forth in this Section 6, which are in addition to, and are no way a limit on, any other rights or privileges of Declarant under any of the Conservatory Documents, shall terminate upon Declarant no longer owning any portion of the Committed Property (and having any equitable or legal interest therein) or upon such earlier date as Declarant shall notify the Association in writing of Declarant's voluntary election to relinquish the aforesaid rights and privileges.

Declarant shall also have the right, but not the obligation, to conduct inspections and tests from time to time of all or any portion of the Association Property in order to ascertain the physical condition of the Improvements and to determine if maintenance, repair or replacement of any such Improvement is indicated. If Declarant conducts any such tests or inspections, it shall pay all costs thereof, restore the affected portion of the Committed Property to its condition immediately prior to the inspections and tests, and shall indemnify the Association and Owner(s) of any affected Home(s) and/or Lot(s) from any damages resulting therefrom. Declarant shall have such rights of entry on, over, under, across and through the Committed Property as may be reasonably necessary to exercise the rights described in this Section 6. Declarant's right of inspection shall exist whether or not the Turnover Date has occurred. In the event Declarant exercises its inspection right, it is acknowledged by the Association and all Owners that Declarant is performing any such inspection for its own benefit and not for the benefit of the Association and/or the Owners and further, Declarant shall have no obligation to inform the Association and/or the Owners of the result of any such inspection.

Section 7. CERTAIN RIGHTS OF CLUB PROPERTY OWNER. Notwithstanding anything to the contrary herein contained, no Improvements constructed or installed by Club Property Owner on the Club Property shall be subject to the approval of the Association, ACB, or the Owners or the provisions and requirements of these CC&Rs. Club Property Owner and its nominees shall have, the right to enter into and transact on the Club Property any business Club Property Owner deems necessary. Club Property Owner has the right to make repairs to the Club Property and to carry on construction activity for the benefit of the Club Property, and may exercise the foregoing rights without notifying the Association. Any such Improvements on the Club Property shall not be considered a part of the Association Property and shall remain the property of Club Property Owner. This right of use and transaction of business as set forth herein and the other rights reserved by Declarant for the benefit of the Club Property Owner in the Conservatory Documents may be assigned in writing by Club Property Owner in whole or in part.

Section 8. DISPUTES AS TO USE. In the event there is any dispute as to whether the use of the Committed Property or any portion or portions thereof complies with the covenants, restrictions, easements or other provisions contained in these CC&Rs, such dispute shall be referred to the Board, and a determination rendered by the Board with respect to such dispute

shall be final and binding on all parties concerned therewith. Notwithstanding anything to the contrary herein contained, any use by Declarant of the Committed Property shall be deemed a use which complies with these CC&Rs and shall not be subject to a contrary determination by the Board.

Section 9. AMENDMENT AND MODIFICATION. The process of amending or modifying these CC&Rs shall be as follows:

A. Until the Turnover Date, Declarant may amend these CC&Rs, by filing a Supplemental Declaration, without the approval of the Association, any Owner or any mortgagee; provided, however, that, with the exception of the annexation of additional property to the terms of these CC&Rs: (i) in the event that such amendment directly, materially and adversely alters, or interferes with, any Owner's right to the use and enjoyment of his Lot, Home, or the Association Property as set forth in these CC&Rs or or Supplemental Declaration, or materially and adversely affects the marketability of title to any Lot or Home, such amendment shall be valid only upon the written consent thereto by a majority in number of the then existing Owners affected thereby; provided, however, in no event shall the addition of additional property or lots or approved modifications to the Declarant's plans for development be considered to materially or adversely affect any Owner's rights; and (ii) in the event that such amendment would materially and adversely affect the security, title and interest of any Institutional Mortgagee, such amendment shall be valid only upon the written consent thereto of all such Institutional Mortgagees so affected. Any amendment made pursuant to this paragraph shall be certified by Declarant as having been duly approved by Declarant, and by such Owners and mortgagees if required, and shall be effective upon being filed in the Public Records of Flagler County, Florida, or at such later date as shall be specified in the amendment itself. Each Owner, by acceptance of a deed or other conveyance to a Lot, agrees to be bound by such amendments as are permitted by this paragraph and further agrees that, if requested to do so by Declarant, such Owner will consent to the amendment of these CC&Rs or any other instruments relating to the Committed Property (a) if such amendment is necessary to bring any provision hereof or thereof into compliance or conformity with the provisions of any applicable governmental statute, rule, or regulation or any judicial determination which shall be in conflict therewith, (b) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any of the Committed Property, (c) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on any of the Property, or (d) if any such amendment is necessary to enable any Governmental Authority or reputable private insurance company to insure mortgages on any of the Property. A Supplemental Declaration may amend these CC&Rs as to all of the Committed Property or as to any portions of the Committed Property.

B. After the Turnover Date, these CC&Rs may be amended by: (i) the consent of the Owners owning two-thirds (2/3) of all Lots; together with (ii) the approval or ratification of a majority of the Board. The aforementioned consent of the Owners owning two-thirds (2/3) of the Lots may be evidenced by a writing signed by the required number of Owners or by the affirmative vote of the required number of Owners at any regular or special meeting of the

Association called and held in accordance with the Bylaws and evidenced by a certificate of the Secretary or an Assistant Secretary of the Association. At any time after the Turnover Date, the provisions, covenants, restrictions and easements set forth herein may be amended in accordance with this provision. Owners holding at least two-thirds (2/3) of the votes in the Association may change or amend any provision hereof (1) by executing a written instrument in recordable form setting forth such amendment, or (2) by causing a certified copy of a duly adopted resolution to be recorded in the Public Records of Flagler County, Florida. A proposed amendment may be initiated by Declarant, the Board or by petition signed by ten percent (10%) of the Owners. If a proposed amendment is to be adopted by vote, a written copy of the proposed amendment shall be furnished to each Owner at least ten (10) days, but not more than ninety (90) days, prior to a duly called meeting of the Association to discuss the proposed amendment. Voting Members representing two-thirds (2/3) of the total votes in the Association present in person or by proxy at the meeting is required for adoption, and the recorded certificate shall contain a recitation that notice was given as above set forth and said recitation shall be conclusive as to all parties, and all parties of any nature whatsoever shall have full right to rely upon said recitation in such recorded certificate; provided, however, in the event that such amendment materially and adversely alters or changes any Owner's right to the use and enjoyment of his Lot or the Association Property as set forth in these CC&Rs or Supplemental Declaration, or materially and adversely affects the marketability of title to any Lot, such amendment shall be valid only upon the written consent thereto by a majority in number of the then existing Owners affected thereby. The amendment shall be effective upon recordation of the executed amendment or the certified copy of the duly adopted resolution among the Public Records of Flagler County, Florida.

C. Prior to the Turnover Date, no amendment shall be made to these CC&Rs or any Supplemental Declaration unless such amendment is first approved in writing by Declarant.

D. Amendments for correction of scrivener's errors or other nonmaterial changes may be made by Declarant alone until the Turnover Date and by the Board thereafter and without the need of consent of the Owners.

E. Notwithstanding anything to the contrary herein contained, no amendment to these CC&Rs shall be effective which shall impair or prejudice the rights or priorities of Declarant, Club Property Owner, the Club, the ACB, the Association or any Institutional Mortgagee under the Conservatory Documents without the specific written approval of such party affected thereby. Notwithstanding anything to the contrary contained herein, no amendment to these CC&Rs shall be effective which shall eliminate or modify the provisions of Section 9 of this Article and any such amendment shall be deemed to impair and prejudice the rights of Declarant; and no amendment to these CC&Rs shall be effective which shall eliminate or modify the provisions of Article VIII without the consent of the ACB and any such amendment shall be deemed to impair and prejudice the rights of the ACB.

F. A true copy of any Amendment to these CC&Rs shall be sent certified mail by the Association to Declarant and to all Institutional Mortgagees holding a mortgage on any portion of the Committed Property requesting notice. The Amendment shall become effective upon the recording amongst the Public Records of the County of said Amendment or any Supplemental Declaration to these CC&Rs which sets forth any Amendment or modification to these CC&Rs.

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G. Notwithstanding anything contained herein to the contrary, Declarant may, without the consent of any Owners, file any amendments which (i) may be required by an Institutional Mortgagee for the purpose of satisfying its development criteria or such other criteria as may be established by such mortgagee's secondary mortgage market purchasers, including, without limitation, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation or (ii) are intended to satisfy the requirements of the Federal Housing Administration's or Veteran's Administration loan programs; provided, however, any such Declarant's filed amendments must be in accordance with any applicable rules, regulations and other requirements promulgated by the United States Department of Housing and Urban Development.

H. Notwithstanding anything to the contrary contained in these CC&Rs, any proposed amendment to these CC&Rs that alters any provision relating to the Surface Water and Storm Water Management System (including any environmental conservation areas and the water management portions of the Association Property), beyond maintenance in its original condition, including the water management portions of the common areas, or any proposed amendment to these CC&Rs that would result in noncompliance with any permit issued by the SJRWMD, including but not limited to consumptive use permits, must have the prior written approval of the SJRWMD. Further, notwithstanding anything to the contrary contained in these CC&Rs, any proposed amendment to these CC&Rs that alters any provision relating to the Utility Systems must have the approval of the Florida Public Service Commission, if applicable. Any such amendment shall be considered approved by the Florida Public Service Commission if written notification of such amendment is sent to the Florida Public Service Commission by Certified Mail, Return Receipt Requested, and no response is received by the Association within thirty (30) days of such mailing, or if such amendment is affirmatively approved by the Florida Public Service Commission within thirty (30) days of such mailing.

Section 10. DELEGATION. The Association, pursuant to a resolution duly adopted by the Board, shall have the continuing authority to delegate all or any portion of its responsibilities for maintenance, operation and administration, as provided herein, to any managing agency or entity selected by the Board from time to time and whether or not related to Declarant.

Section 11. TERM. These CC&Rs and the terms, provisions, conditions, covenants, restrictions, reservations, regulations, burdens and liens contained herein shall run with and bind the Committed Property, and inure to the benefit of Declarant, the Association and the Owners and their respective legal representatives, heirs, successors and assigns for a term of fifty (50) years from the date of recording these CC&Rs amongst the Public Records of the County, after which time these CC&Rs shall be automatically renewed and extended for successive periods of ten (10) years each unless at least one (1) year prior to the termination of such fifty (50)-year term or any such ten (10)-year extension there is recorded amongst the Public Records of the County an instrument agreeing to terminate these CC&Rs signed by Owners owning two-thirds (2/3) of the Lots and Institutional Mortgagees holding first mortgages encumbering two-thirds (2/3) of all Lots encumbered by first mortgages held by Institutional Mortgagees, upon which event these CC&Rs shall be terminated upon the expiration of the fifty (50)-year term or the ten (10)-year extension during which such instrument was recorded.

In the event these CC&Rs is terminated or the Association ceases to exist for any reason, the Owners shall be jointly and severally responsible for the costs to maintain and shall maintain the Association Property and the Surface Water and Storm Water Management System in the manner described herein. This provision may not be amended or deleted without the prior written consent of the County and this provision shall survive the termination of these CC&Rs and shall run with the Committed Property in perpetuity.

Section 12. RIGHTS OF MORTGAGEES.

A. **Right to Notice.** The Association shall make available for inspection upon request, during normal business hours or under reasonable circumstances, the Conservatory Documents and the books, records and financial statements of the Association to Owners and the holders, insurers or guarantors of any first mortgages encumbering any portion of the Committed Property. In addition, evidence of insurance shall be issued to each Owner and mortgagee holding a mortgage encumbering a Home upon written request to the Association.

B. **Rights of Listed Mortgagee.** Upon written request to the Association, identifying the name and address of the holder, insurer, or guarantor (such holder, insurer or guarantor is herein referred to as a "Listed Mortgagee") of a mortgage encumbering a Lot and the legal description of such Lot, the Association shall provide such Listed Mortgagee with timely written notice of any failure by an Owner owning a Lot encumbered by a mortgage held, insured or guaranteed by such Listed Mortgagee to pay Assessments, or any other charge owed to the Association by said Owner where such failure or delinquency has continued for a period of sixty (60) days.

Section 13. APPROVAL OF ASSOCIATION LAWSUITS BY OWNERS. Notwithstanding anything contained herein to the contrary, the Association shall be required to obtain the approval of three-fourths (3/4) of the total voting interests (at a duly called meeting of the Owners at which a quorum is present) prior to engaging persons or entities for the purpose of suing, or making, preparing or investigating any lawsuit, or commencing any lawsuit other than for the following purposes:

- A. the collection of Assessments;
- B. the collection of other charges which Owners are obligated to pay pursuant to the Conservatory Documents;
- C. the enforcement of the use and occupancy restrictions contained in the Conservatory Documents;
- D. dealing with an emergency when waiting to obtain the approval of the Owners creates a substantial risk of irreparable injury to the Association Property or to Owner(s) (the imminent expiration of a statute of limitations shall not be deemed an emergency obviating the need for the requisite vote of three-fourths [3/4] of the Owners); or
- E. filing a compulsory counterclaim.

Section 14. COMPLIANCE WITH PROVISIONS. Every person who owns, occupies or acquires any right, title, estate or interest in or to any Lot except as elsewhere herein provided does consent and agree to, and shall be conclusively deemed to have consented and agreed to, every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest in such property. Declarant shall not in any way or manner be held liable or responsible for any violation of these CC&Rs by any person other than Declarant.

Section 15. SECURITY. The Association may, but shall not be obligated to, maintain or support certain activities within the Committed Property designed to make the Committed Property safer than it otherwise might be. Additionally, NEITHER DECLARANT, CLUB PROPERTY OWNER, NOR THE ASSOCIATION MAKES ANY REPRESENTATIONS WHATSOEVER AS TO THE SECURITY OF THE PREMISES OR THE EFFECTIVENESS OF ANY MONITORING SYSTEM OR SECURITY SERVICE. ALL OWNERS AGREE TO HOLD DECLARANT, CLUB PROPERTY OWNER, AND THE ASSOCIATION HARMLESS FROM ANY LOSS OR CLAIM ARISING FROM THE OCCURRENCE OF ANY CRIME OR OTHER ACT. NEITHER THE ASSOCIATION, DECLARANT, CLUB PROPERTY OWNER, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE COMMITTED PROPERTY. NEITHER THE ASSOCIATION, DECLARANT, CLUB PROPERTY OWNER, NOR ANY SUCCESSOR DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN, IF ANY. ALL MEMBERS, OWNERS AND OCCUPANTS OF ANY LOT OR HOME, AND TENANTS, GUESTS, AND INVITEES OF ANY OWNER ACKNOWLEDGE THAT THE ASSOCIATION AND ITS BOARD, DECLARANT, CLUB PROPERTY OWNER, AND ANY SUCCESSOR DECLARANT DO NOT REPRESENT OR WARRANT THAT: (a) ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SECURITY SYSTEM, IF ANY, DESIGNATED BY OR INSTALLED ACCORDING TO GUIDELINES ESTABLISHED BY DECLARANT OR THE ACB MAY NOT BE COMPROMISED OR CIRCUMVENTED, OR (b) THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH MEMBER, OWNER AND OCCUPANT OF ANY LOT OR HOME, AND EACH TENANT, GUEST AND INVITEE OF AN OWNER ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS BOARD AND THE ACB, DECLARANT, CLUB PROPERTY OWNER, AND ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH MEMBER, OWNER AND OCCUPANT OF ANY LOT OR HOME, AND EACH TENANT, GUEST AND INVITEE OF ANY MEMBER OR OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO LOTS OR HOMES, AND TO THE CONTENTS OF LOTS OR HOMES AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, ITS BOARD AND THE ACB, DECLARANT, CLUB PROPERTY OWNER, AND ANY SUCCESSOR DECLARANT HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, MEMBER, OCCUPANT, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO

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ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED, IF ANY, OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE COMMITTED PROPERTY.

Section 16. OWNERS' VIEWS. NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, HAVE BEEN GIVEN OR MADE BY CLUB PROPERTY OWNER, DECLARANT OR THEIR AGENTS OR EMPLOYEES IN CONNECTION WITH THE EXISTING OR FUTURE VIEWS THAT WILL BE AVAILABLE TO OWNERS. EACH OWNER BY ITS PURCHASE OF A HOME OR A LOT ASSUMES THE RISK OF VIEW RESTRICTIONS CAUSED BY MATURATION OF TREES AND SHRUBBERY AND THE CONSTRUCTION OF ANY IMPROVEMENTS.

Section 17. COVENANT RUNNING WITH THE LAND. All provisions of these CC&Rs shall, to the extent applicable and unless otherwise expressly provided herein to the contrary, be construed to be covenants running with the Lots and Homes and the Committed Property and with every part thereof and interest therein, and all of the provisions hereof shall be binding upon and inure to the benefit of the Declarant and subsequent Owner(s) of the Homes, Lots and Committed Property or any part thereof, or interest therein, and their respective heirs, successors, and assigns. However, the same are not intended to create nor shall they be construed as creating any rights in or for the benefit of the general public, unless specifically provided herein to the contrary. All present and future Owners, lessees, and occupants of the Lots and Homes, as applicable, shall be subject to and shall comply with the provisions of these CC&Rs and the Articles, Bylaws and applicable rules and regulations as they exist and may from time to time be amended. The acceptance of a deed of conveyance of a Lot, or the entering into a lease of or occupancy of a Home, shall constitute an adoption and ratification by such Owner, lessee, or occupant of the provisions of these CC&Rs, and the Articles, Bylaws, and applicable rules and regulations of the Association, as they may be amended from time to time. In the event that any easements granted herein shall fail for want of a grantee in being or for any other purpose, the same shall constitute and be covenants running with the land.

Section 18. NO PUBLIC RIGHT OR DEDICATION. Nothing contained in these CC&Rs shall be deemed to be a gift or dedication of all or any portion of the Association Property to the public, or for any public use.

Section 19. NO REPRESENTATIONS OR WARRANTIES. NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, HAVE BEEN GIVEN OR MADE BY DECLARANT OR ITS AGENTS OR EMPLOYEES IN CONNECTION WITH ANY PORTION OF THE ASSOCIATION PROPERTY, ITS PHYSICAL CONDITION, ZONING, COMPLIANCE WITH APPLICABLE LAWS, FITNESS FOR INTENDED USE, OR IN CONNECTION WITH THE SUBDIVISION, SALE, OPERATION, MAINTENANCE, COST OF MAINTENANCE, TAXES OR REGULATION THEREOF, EXCEPT AS SPECIFICALLY AND EXPRESSLY SET FORTH IN THESE CC&RS.

Section 20. ASSOCIATION AND DECLARANT AS ATTORNEY-IN-FACT. Each Owner, by reason of having acquired ownership of a Lot, whether by purchase, gift, operation of law or otherwise, and each occupant of a Home, by reason of his or her occupancy, is hereby declared to have acknowledged and agreed to his or her automatic consent to any rezoning, replatting, SOLICITORS, 59039, 00001, 100788155.14, Conservatory - Declaration of CCRs

covenant in lieu of unity of title, change, addition or deletion made in, on or to the Committed Property by Declarant (hereinafter, collectively, "Modifications") and, in respect thereto, each Owner of a Lot and occupant of a Home hereby designates the Association to act as agent and attorney-in-fact on behalf of such Owner or occupant to consent to any such Modification. If requested by Declarant, each Owner shall evidence his consent to a Modification in writing (provided, however, that any refusal to give such written consent shall not obviate the automatic effect of this provision). Further, each Owner, by reason of acceptance to such Owner's Lot, hereby agrees to execute, at the request of Declarant, any document and/or consent which may be required by any government agency to allow Declarant and/or its affiliates to complete the plan of development of the Committed Property, as such plan may be hereafter amended, and each such Owner hereby further appoints Declarant as such Owner's agent and attorney-in-fact to execute, on behalf and in the name of each such Owner, any and all of such documents and/or consents. This power of attorney is irrevocable and is coupled with an interest. The provisions of this Section 18 may not be amended without Declarant's prior written consent.

IN WITNESS WHEREOF, these CC&Rs has been signed by Declarant on the date set forth below.

DECLARANT:

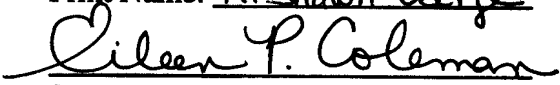
GINN-LA HAMMOCK BEACH LTD., LLLP, a Georgia limited liability limited partnership

By: GINN-LA HAMMOCK BEACH GP, LLC, a Georgia limited liability company, its sole general partner


WITNESSES AS TO DECLARANT:


Signature

Print Name: A. Shawn George


Signature

Print Name: Eileen P. Coleman

By: 
Name: Robert F. Masters
Title: Executive V.P.

STATE OF FLORIDA)
) SS
COUNTY OF Flagler)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to make acknowledgments, the foregoing instrument was acknowledged before me by Robert F. Masters, the Exec. Vice President of GINN-LA Hammock Beach GP, LLC, a Georgia limited liability company, the sole general partner of GINN-LA Hammock Beach Ltd., LLLP, a Georgia limited liability limited partnership, freely and voluntarily under authority duly vested in him by said corporation, and that the seal affixed thereto is the true corporate seal of said corporation. _____ is personally known to me or has produced as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 28th day of March, 2005.

Linda K. Langbein
Notary Public, State of Florida at Large

My Commission Expires:

Typed, Printed or Stamped Name of Notary Public

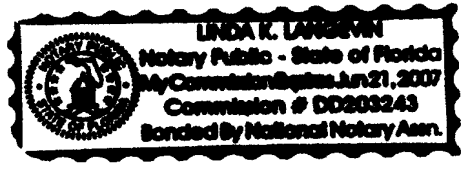


EXHIBIT "A"

LEGAL DESCRIPTION OF COMMITTED PROPERTY

All of that certain property described in the Plat of Conservatory at Hammock Beach recorded in Plat Book 34, Pages 76 through 101, inclusive, of the Public Records of Flagler County.

EXHIBIT "B"
ARTICLES OF INCORPORATION
OF
THE CONSERVATORY PROPERTY OWNERS' ASSOCIATION, INC.

**ARTICLES OF INCORPORATION
OF
THE CONSERVATORY PROPERTY OWNERS' ASSOCIATION, INC.**

(A Florida Corporation Not For Profit)

In order to form a corporation not for profit under and in accordance with the provisions of Chapter 617 of the Florida Statutes, the undersigned hereby incorporates this corporation not for profit for the purposes and with the powers hereinafter set forth and, to that end, the undersigned, by these Articles of Incorporation, certifies as follows:

ARTICLE I

DEFINITIONS

The following words and phrases when used in these Articles of Incorporation (unless the context clearly reflects another meaning) shall have the following meanings:

1. "Articles" means these Articles of Incorporation and any amendments hereto.
2. "Assessments" means the assessments for which all Owners are obligated to the Association and includes "Individual Lot Assessments", "Special Assessments" (as such terms are defined in the CC&Rs), and any and all other assessments which are levied by the Association in accordance with the Conservatory Documents.
3. "Association" means The Conservatory Property Owners' Association, Inc., a Florida corporation not for profit.
4. "Association Property" means the property more particularly described in Article II of the CC&Rs.
5. "Conservatory Documents" means, in the aggregate, the CC&Rs, these Articles, the Bylaws, the Plat, any Additional Plat, and all of the instruments and documents referred to or incorporated therein including, but not limited to, any "Amendment(s)" and "Supplemental Declaration(s)" (as such terms are defined in the CC&Rs).
6. "Board" means the Board of Directors of the Association.
7. "Bylaws" means the Bylaws of the Association and any amendments thereto.
8. "CC&Rs" means the Declaration of Covenants, Conditions, and Restrictions for The Conservatory, which is intended to be recorded amongst the Public Records of the County, and any amendments thereto.
9. "City" means the city of Palm Coast, Florida.
10. "Committed Property" shall mean shall mean that certain real property described in Exhibit "A" to the CC&Rs and such additions thereto as may hereafter be brought within the

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jurisdiction of the CC&Rs and/or the Association; provided, however, Declarant reserves the right to withdraw from the provisions hereof, such portion or portions of the Committed Property as Declarant from time to time elects, upon the execution by Declarant of a Supplemental Declaration.

11. "County" means Flagler County, Florida.

12. "Declarant" means Ginn-LA Hammock Beach Ltd., LLLP, a Georgia limited liability limited partnership, its successors and assigns, and any successor or assign to which Ginn-LA Hammock Beach Ltd., LLLP specifically assigns all or part of the rights of Declarant under the CC&Rs by an express written assignment, whether recorded in the Public Records of the County or not. The written assignment may give notice as to which rights of Declarant are to be exercised and as to which portion of the Committed Property. In any event, any subsequent declarant shall not be liable for any default or obligations incurred by any prior declarant, except as may be expressly assumed by the subsequent declarant.

13. "Department" means the Florida Department of Business and Professional Regulation.

14. "Director" means a member of the Board.

15. "Home" means a residential dwelling unit constructed within the Committed Property which is designed and intended for use and occupancy as a single-family residence.

16. "Lot" means and refers to any parcel of land within the Committed Property as shown on the Plat or any "Additional Plat" (as such term is defined in the CC&Rs) upon which a Home is permitted to be constructed, together with the improvements thereon and any portion of the Committed Property that is declared to be a Lot by a Supplemental Declaration and is not subsequently withdrawn from the provisions of the CC&Rs by a Supplemental Declaration. For purposes of Individual Lot Assessments, a Lot is either an Improved Lot or an Unimproved Lot.

17. "Member" means a member of the Association.

18. "Operating Expenses" means the expenses for which Owners are liable to the Association as described in the Conservatory Documents and includes, but is not limited to, the costs and expenses incurred by the Association in administering, operating, maintaining, financing or repairing the Association Property or any portion thereof and Improvements thereon and all costs and expenses incurred by the Association in carrying out its powers and duties as set forth in the Conservatory Documents.

19. "Owner" means and refers to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, and includes Declarant for so long as Declarant owns fee simple title to a Lot, but excluding therefrom those having such interest as security for the performance of an obligation.

20. "Plat" means the subdivision plat of The Conservatory at Hammock Beach, which is recorded in Plat Book 34, Pages 76 through 101, inclusive, of the Public Records of the County. In the event an additional plat with respect to any other portions of the Committed Property is recorded among the Public Records of the County, then the term "Plat" as used herein shall also mean such additional plat.

Unless otherwise defined herein, the terms defined in the CC&Rs are incorporated herein by reference and shall appear in initial capital letters each time such terms appears in these Articles.

ARTICLE II

NAME

The name of this corporation shall be THE CONSERVATORY PROPERTY OWNERS' ASSOCIATION, INC., a Florida corporation not for profit, whose principal address and mailing address is 1 Hammock Beach Parkway, Palm Coast, Florida, 32137.

ARTICLE III

PURPOSES

The purpose for which the Association is organized is to take title to, operate, administer, manage, lease and maintain the Association Property in accordance with the terms of, and purposes set forth in, the Conservatory Documents and to carry out the covenants and enforce the provisions of the Conservatory Documents.

ARTICLE IV

POWERS

The Association shall have the following powers and shall be governed by the following provisions:

A. The Association shall have all of the common law and statutory powers of a corporation not for profit.

B. The Association shall have all of the powers granted to the Association in the Conservatory Documents. All of the provisions of the CC&Rs and Bylaws which grant powers to the Association are incorporated into these Articles.

C. The Association shall have all of the powers reasonably necessary to implement the purposes of the Association, including, but not limited to, the following:

1. To perform any act required or contemplated by it under the Conservatory Documents.

2. To make, establish, amend and enforce reasonable rules and regulations governing the use of the Association Property and the Committed Property.
3. To make, levy and collect Assessments for the purpose of obtaining funds from its Members to pay Operating Expenses and other costs defined in the CC&Rs and costs of collection, and to use and expend the proceeds of Assessments in the exercise of the powers and duties of the Association. The Association shall levy and collect adequate assessments against Members for the costs of maintenance and operation of the Global Surface Water and Storm Water Management System.
4. The Association shall operate, maintain and manage the Global Surface Water and Storm Water Management System in a manner consistent with the St. Johns River Water Management District permits no. 4-035-92930-1 and successor permits, requirements and applicable District rules, and shall assist in the enforcement of the CC&Rs provisions which relate to the Global Surface Water and Storm Water Management System.
5. The Association shall operate, maintain and manage the Utility Systems as defined in and pursuant to the requirements and limitations of the CC&Rs.
6. The Association shall be responsible for compliance with any Consumptive Use Permit(s) regarding the Committed Property issued by the St. Johns River Water Management District in matters regarding the consumptive use of water within and upon the Committed Property.
7. To maintain, repair, replace and operate the Association Property and, in some cases, Committed Property, in accordance with the Conservatory Documents.
8. To enforce by legal means the obligations of the Members and the provisions of the Conservatory Documents.
9. To employ personnel, retain independent contractors and professional personnel, and enter into service contracts to provide for the maintenance, operation, administration and management of the Association Property and, in some cases, the Lots and Committed Property and to enter into any other agreements consistent with the purposes of the Association, including, but not limited to, agreements with respect to professional management of the Association Property, Lots and Committed Property and to delegate to such professional manager certain powers and duties of the Association.
10. To enter into the CC&Rs and any amendments thereto and instruments referred to therein.

11. To provide, to the extent deemed necessary by the Board, any and all services and do any and all things which are incidental to or in furtherance of things listed above or to carry out the Association mandate to keep and maintain the Committed Property in a proper and aesthetically pleasing condition and to provide the Owners with services, amenities, controls and enforcement which will enhance the quality of life in the Committed Property.

12. Notwithstanding anything contained herein to the contrary, the Association shall be required to obtain the approval of three-fourths (3/4) of all Members (at a duly called meeting of the Members at which a quorum is present) prior to the engagement of legal counsel by the Association for the purpose of suing, or making, preparing or investigating any lawsuit, or commencing any lawsuit other than for the following purposes:

- (a) the collection of Assessments;
- (b) the collection of other charges which Owners are obligated to pay pursuant to the Conservatory Documents;
- (c) the enforcement of any applicable use and occupancy restrictions contained in the Conservatory Documents;
- (d) dealing with an emergency when waiting to obtain the approval of the Members creates a substantial risk of irreparable injury to the Association Property or to Member(s) (the imminent expiration of a statute of limitations shall not be deemed an emergency obviating the need for the requisite vote of three-fourths (3/4) of the Members); or
- (e) filing a compulsory counterclaim.

ARTICLE V

MEMBERS AND VOTING

The qualification of Members of the Association, the manner of their admission to membership, the manner of the termination of such membership and the manner of voting by Members shall be as follows:

A. Until such time as the first deed of conveyance of a Lot from Declarant to an Owner is recorded amongst the Public Records of the County ("First Conveyance"), the membership of the Association shall be comprised solely of the Declarant. Declarant shall be entitled to cast one (1) vote on all matters requiring a vote of the membership.

B. Upon the First Conveyance, Declarant shall be a Member as to each of the remaining Lots until each such Lot is conveyed to another Owner, and thereupon and thereafter each and every Owner, including Declarant as to Lots owned by Declarant, shall be a Member and exercise all of the rights and privileges of a Member.

C. Membership in the Association for Owners other than Declarant shall be established by the acquisition of ownership of fee simple title to a Lot as evidenced by the

recording of an instrument of conveyance amongst the Public Records of the County. Where title to a Lot is acquired by conveyance from a party other than Declarant by means of sale, gift, inheritance, devise, judicial decree or otherwise, the person, persons or entity thereby acquiring such Lot shall not be a Member unless or until such Owner shall deliver a true copy of a deed or other instrument of acquisition of title to the Association.

D. The Association shall have two (2) classes of voting membership:

1. "Class A Members" shall be all Members, with the exception of Declarant while Declarant is a Class B Member, each of whom shall be entitled to one (1) vote for each Lot owned.

2. "Class B Members" shall be Declarant, who shall be entitled to one (1) vote for each Lot owned by Declarant. Class B membership shall cease and be converted to Class A membership upon the earlier to occur of the following events ("Turnover Date"):

(i) Three (3) months after the conveyance of ninety percent (90%) of the "Total Developed Lots" (as defined in Article X.C hereof) by Declarant, as evidenced by the recording of instruments of conveyance of such Lots amongst the Public Records of the County; or

(ii) At such time as Declarant shall designate in writing to the Association.

On the Turnover Date, Class A Members, including Declarant, shall assume control of the Association and elect not less than a majority of the Board.

E. The designation of different classes of membership are for purposes of establishing the number of votes applicable to certain Lots, and nothing herein shall be deemed to require voting solely by an individual class on any matter which requires the vote of Members, unless otherwise specifically set forth in the Conservatory Documents.

F. No Member may assign, hypothecate or transfer in any manner his/her membership in the Association except as an appurtenance to his/her Lot.

G. Any Member who conveys or loses title to a Lot by sale, gift, devise, bequest, judicial decree or otherwise shall, immediately upon such conveyance or loss of title, no longer be a Member with respect to such Lot and shall lose all rights and privileges of a Member resulting from ownership of such Lot.

H. There shall be only one (1) vote for each Lot. If there is more than one Member with respect to a Lot as a result of the fee interest in such Lot being held by more than one person, such Members collectively shall be entitled to only one (1) vote. The vote of the Owners of a Lot owned by more than one natural person or by a corporation or other legal entity shall be cast by the person named in a certificate signed by all of the Owners of the Lot, or, if appropriate, by properly designated officers, partners or principals of the respective legal entity

("Voting Member"), and filed with the Secretary of the Association, and such certificate shall be valid until revoked by a subsequent certificate. If such a certificate is not filed with the Secretary of the Association, the vote of such Lot shall not be considered for a quorum or for any other purpose.

Notwithstanding the foregoing provisions, whenever any Lot is owned by a husband and wife they may, but shall not be required to, designate a Voting Member. In the event a certificate designating a Voting Member is not filed by the husband and wife, the following Provisions shall govern their right to vote:

1. When both are present at a meeting, each shall be regarded as the agent and proxy of the other for purposes of casting the vote for each Lot owned by them. In the event they are unable to concur in their decision upon any topic requiring a vote, they shall lose their right to vote on that topic at that meeting, but shall count for purposes of establishing a quorum.

2. When only one (1) spouse is present at a meeting, the person present may cast the Lot vote without establishing the concurrence of the other spouse, absent any prior written notice to the contrary by the other spouse. In the event of prior written notice to the contrary to the Association by the other spouse, the vote of said Lot shall not be considered, but shall count for purposes of establishing a quorum.

3. When neither spouse is present, the person designated in a "Proxy" (as defined in the Bylaws) signed by either spouse may cast the Lot vote, when voting by Proxy is allowed, absent any prior written notice to the contrary to the Association by the other spouse or the designation of a different Proxy by the other spouse. In the event of prior written notice to the contrary to the Association or the designation of a different Proxy by the other spouse, the vote of said Lot shall not be considered, but shall count for purposes of establishing a quorum.

I. A quorum shall consist of persons entitled to cast at least thirty percent (30%) of the total number of votes of the Members.

ARTICLE VI

TERM

The term for which this Association is to exist shall be perpetual. In the event of dissolution of the Association (unless same is reinstated), other than incident to a merger or consolidation, all of the assets of the Association shall be conveyed to a similar homeowners association or a public agency having a similar purpose, or any Member may petition the appropriate circuit court of the State of Florida for the appointment of a receiver to manage the affairs of the dissolved Association and its properties in the place and stead of the dissolved Association and to make such provisions as may be necessary for the continued management of the affairs of the dissolved Association and its properties. In the event of termination, dissolution or final liquidation of the Association, the responsibility for the operation and maintenance of the Global Surface Water and Storm Water Management System, if the responsibility of the Association, must be transferred to and accepted by an entity which would comply with Section

40C-42.027, F.A.C., and be approved in writing by the St. Johns River Water Management District prior to such termination, dissolution or liquidation.

ARTICLE VII

INCORPORATOR

The name and address of the Incorporator of these Articles is:

A.G.C. Co.	200 South Orange Avenue Suite 2300 Orlando, Florida 32801
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ARTICLE VIII

OFFICERS

The affairs of the Association shall be managed by the President of the Association, assisted by the Vice President(s), Secretary and Treasurer, and, if any, by the Assistant Secretary(ies) and Assistant Treasurer(s), subject to the directions of the Board. Except for officers elected prior to the Turnover Date, officers must be Members, or the parents, children or spouses of Members.

The Board shall elect the President, Secretary and Treasurer, and as many Vice Presidents, Assistant Secretaries and Assistant Treasurers as the Board shall, from time to time, determine. The President shall be elected from amongst the membership of the Board, but no other officer need be a Director. The same person may hold two offices, the duties of which are not incompatible; provided, however, the office of President and a Vice President shall not be held by the same person, nor shall the office of President and Secretary or Assistant Secretary be held by the same person.

ARTICLE IX

FIRST OFFICERS

The names of the officers who are to serve until the first election of officers by the Board are as follows:

John R. Asp	President	1 Hammock Beach Parkway Palm Coast, Florida 32137
Shawn George	Vice-President	1 Hammock Beach Parkway Palm Coast, Florida 32137
Chris Abdalla	Secretary	1 Hammock Beach Parkway Palm Coast, Florida 32137

ARTICLE X

BOARD OF DIRECTORS

A. The number of Directors on the first Board of Directors of the Association ("First Board") and the "Initial Elected Board" (as hereinafter defined) shall be three (3). The number of Directors elected by the Members subsequent to the "Declarant's Resignation Event" (as hereinafter defined) shall be not less than three (3) nor more than seven (7), as the Board shall from time to time determine prior to each meeting at which Directors are to be elected. Except for Declarant appointed Directors, Directors must be Members or the parents, children or spouses of Members. There shall be only one (1) vote for each Director.

B. The names and addresses of the persons who are to serve as Directors on the First Board are as follows:

NAMES	ADDRESSES
John R. Asp	1 Hammock Beach Parkway Palm Coast, Florida 32137
Shawn George	1 Hammock Beach Parkway Palm Coast, Florida 32137
Chris Abdalla	1 Hammock Beach Parkway Palm Coast, Florida 32137

Declarant reserves the right to replace and/or designate and elect successor Directors to serve on the First Board for so long as the First Board is to serve, as hereinafter provided.

C. For purposes of this paragraph, "Total Developed Lots" shall mean the three hundred forty (340) developed Lots which Declarant intends to develop in the Committed Property. Notwithstanding the foregoing, Declarant has reserved the right in the CC&Rs to modify its plan of development for the Committed Property and to add land to and withdraw land from the Committed Property and, therefore, the total number of Lots and Homes, and thus the term "Total Developed Lots," may refer to a number greater or lesser than three hundred forty (340). The number of Lots added to or withdrawn from the Committed Property and the revised number of "Total Developed Lots" will be set forth in a Supplemental Declaration recorded in the County if additional land is added to or withdrawn from the Committed Property.

D. Upon the Turnover Date, the Members other than Declarant ("Purchaser Members") shall be entitled to elect two (2) of the three (3) Directors, and Declarant shall be entitled to appoint one (1) of the three (3) Directors. The election of the two (2) Directors by the Purchaser Members shall occur at a special meeting of the membership to be called by the Board for such purpose ("Initial Election Meeting"). The Directors elected by the Purchaser Members shall not be subject to removal by Declarant. The First Board shall serve until the Initial Election Meeting.

E. Notwithstanding any other provisions of these Articles, at the Initial Election Meeting, Purchaser Members, who shall include all Members other than Declarant, the number of which may change from time to time, shall elect two (2) of the Directors, and Declarant, until the Declarant's Resignation Event, shall be entitled to designate one (1) Directors (same constituting the "Initial Elected Board"). Declarant reserves and shall have the right, until the Declarant's Resignation Event, to name the successor(s), if any, to the Director it has so designated. Directors elected by Declarant shall not be subject to removal by the Purchaser Members.

F. The Board shall continue to be so designated and elected, as described in Paragraph E above, at each subsequent "Annual Members' Meeting" (as defined in the Bylaws), until the Annual Members' Meeting following the Declarant's Resignation Event or until a Purchaser Member-elected Director is removed in the manner hereinafter provided.

G. The Initial Election Meeting shall be called by the Association, through the Board, within sixty (60) days after the Purchaser Members are entitled to elect a majority of Directors as provided in Paragraph D hereof. A notice of meeting shall be forwarded to all Members in accordance with the Bylaws; provided, however, that the Members shall be given at least fourteen (14) days' notice of such meeting. The notice shall also specify the number of Directors which shall be elected by the Purchaser Members and the remaining number of Directors designated by Declarant.

H. Upon the earlier to occur of the following events ("Declarant's Resignation Event"), Declarant shall cause all of its designated Directors to resign:

1. When Declarant no longer holds at least five percent (5%) of the Total Developed Lots for sale in the ordinary course of business and all Lots sold by Declarant have been conveyed as evidenced by the recording of instruments of conveyance of such Lots amongst the Public Records of the County; or

2. When Declarant causes the voluntary resignation of all of the Directors designated by Declarant and does not designate replacement Directors.

Upon Declarant's Resignation Event, the Purchaser Members shall elect a successor Director to fill the vacancies caused by the resignation or removal of the two Declarant-appointed Directors. This successor Director shall serve until the next Annual Members' Meeting and until a successor to the Declarant-appointed Director is elected and qualified. In the event Declarant's Resignation Event occurs prior to the Initial Election Meeting, the Initial Election Meeting shall be called in the manner set forth in Paragraph G of this Article X, and all of the Directors shall be elected by the Purchaser Members at such meeting. At each Annual Members' Meeting held subsequent to Declarant's Resignation Event, all of the Directors shall be elected by the Members.

I. The term of the Board elected at the Initial Election Meeting shall be five (5) years. At the election held during the Annual Owners Meeting that occurs after said five (5) year term, a "staggered" term of office of the Board shall be created as follows:

1. a number equal to fifty percent (50%) of the total number of Directors rounded up to the nearest whole number is the number of Directors whose term of office shall be established at two (2) years and the Directors serving for a two (2) year term will be the Directors receiving the most votes at the meeting; and

2. the remaining Directors' terms of office shall be established at one (1) year.

At each Annual Members' Meeting thereafter, as many Directors of the Association shall be elected as there are Directors whose regular term of office expires at such time, and the term of office of the Directors so elected shall be for two (2) years, expiring when their successors are duly elected and qualified.

J. The resignation of a Director who has been designated by Declarant or the resignation of an officer of the Association who has been elected by the First Board shall be deemed to remise, release, acquit, satisfy and forever discharge such officer or Director of and from any and all manner of action(s), cause(s) of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims and demands whatsoever, in law or in equity, which the Association or Purchaser Members had, now have or will have or which any personal representative, successor, heir or assign of the Association or Purchaser Members hereafter can, shall or may have against said officer or Director for, upon or by reason of any matter, cause or thing whatsoever from the beginning of the world to the day of such resignation, except for such Director's or officer's willful misconduct or gross negligence.

K. Until Declarant's Resignation Event, Declarant shall have the right to disapprove any action, policy or program of the Association, the Board and any committee which, in Declarant's sole and absolute judgment, would tend to impair the rights or interests of Declarant or any builder, interfere with the development or construction of any portion of the Committed Property, or diminish the level of services the Association provides.

1. The Association, the Board and each committee shall give the Declarant written notice of their meetings and proposed actions to be approved at their meetings (or by written consent in lieu of a meeting). The notice shall comply with notice to Directors provision of the Bylaws and shall, except in the case of the regular meetings held pursuant to the Bylaws, set forth with reasonable particularity the agenda to be followed at such meeting.

2. The Association, the Board and each committee shall give the Declarant the opportunity at any meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy or program which would be subject to the right if disapproval described in this Paragraph K.

3. Declarant, its representatives or agents, shall make its concerns, thoughts and suggestions known to the Board and/or the members of the subject committee. The Declarant may exercise its right to disapprove at any time within ten (10) days following the meeting at which such action was proposed or, if the action is approved without a meeting, at any time within ten (10) days following receipt of written notice of the proposed action. This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counteraction by the Association, the Board or any committee. The Declarant shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditures required to comply with applicable laws and regulations.

4. No action, policy or program subject to Declarant's right of disapproval shall become effective or be implemented until and unless the requirements of subsections (1) and (2) above have been met.

L. A Director (other than a Declarant-appointed Director) may be removed from office according to the following:

1. A Director (other than a Declarant-appointed Director) may be removed from office upon the affirmative vote of a majority of the voting interests of Purchaser Members for any reason deemed to be in the best interests of the Purchaser Members at a meeting of the Purchaser Members. A meeting of the Purchaser Members to so remove a Director or Directors (other than a Declarant-appointed Director) shall be held upon the written request to the Association of ten percent (10%) of the Purchaser Members. Notice of the meeting of the Purchaser Members shall be given as provided in the Bylaws and shall state the purpose of the meeting. The Board shall duly notice and hold a Board meeting within five (5) full business days after the adjournment of the Purchaser Member meeting at which one or more Directors were recalled. At the meeting of the Board, the Board shall either (i) certify the recall, in which case such Director or Directors shall be recalled effective immediately and shall turn over to the Board within five (5) full business days any and all records and property of the Association in the Director's or Directors' possession, or (ii) proceed as described in Paragraph K(3) below.

2. A Director (other than a Declarant-appointed Director) may also be removed by an agreement in writing or by written ballot without a meeting of the Purchaser Members. The agreement in writing or the written ballots, or a copy thereof, shall be served on the Association by certified mail or by personal service in the manner authorized by Chapter 48, Florida Statutes and the Florida Rules of Civil Procedure. Within five (5) full business days after the Association's receipt of a properly served agreement in writing or written ballots the Board shall duly notice and hold a meeting of the Board. At the meeting of the Board, the Board shall either (i) certify the written ballots or written agreement to recall a director or directors of the Board, in which case such director or directors shall be recalled effective immediately and shall turn over to the Board within five (5) full business days any and all records and property of the Association in the Director's or Directors' possession, or (ii) proceed as described in Paragraph K(3) below.

i. When it is determined by the Department, pursuant to binding arbitration proceedings, that an initial recall effort was defective, written recall agreements or written ballots used in the first recall effort and not found to be defective may be reused in one subsequent recall effort. However, in no event is a written agreement or written ballot valid for more than one hundred twenty (120) days after it has been signed by the Purchaser Member.

ii. Any rescission or revocation of a Purchaser Member's written recall ballot or agreement must be in writing and, in order to be effective, must be delivered to the Association before the Association is served with the written recall agreements or ballots.

iii. The agreement in writing or ballot shall list at least as many possible replacement Directors as there are Directors subject to the recall, when at least a majority of the Board is sought to be recalled; the person executing the recall instrument may vote for as many replacement candidates as there are Directors subject to the recall.

3. If the Board determines not to certify the written agreement or written ballots to recall a Director or Directors of the Board or does not certify the recall by a vote of the Purchaser Members at a meeting, the Board shall, within five (5) full business days after the meeting, file with the Department a petition for binding arbitration pursuant to the applicable procedures in Section 718.1255, Florida Statutes and Section 718.112(2)(j), Florida Statutes, and the rules adopted thereunder. For the purposes of arbitration under this section, the Purchaser Members who voted at the meeting or who executed the agreement in writing shall constitute one party under the petition for arbitration. If the arbitrator certifies the recall as to any Director or Directors of the Board, the recall will be effective upon mailing of the final order of arbitration to the Association. The Director or Directors so recalled shall deliver to the Board any and all records of the Association in the Director's or Directors' possession within five (5) full business days after the effective date of the recall.

4. Notwithstanding any provision to the contrary, if a vacancy occurs on the Board as a result of a recall and less than a majority of the Directors are removed, the vacancy may be filled by the affirmative vote of a majority of the remaining Directors. If vacancies occur on the Board as a result of a recall and a majority or more of the Directors are removed, the vacancies shall be filled by Purchaser Members voting in favor of the recall; if removal is at a meeting of the Purchaser Members, any vacancies shall be filled by the Purchaser Members at the meeting. If the recall occurred by agreement in writing or by written ballot, Purchaser Members may vote for replacement Directors in the same instrument.

5. If the Board fails to duly notice and hold a Board meeting within five (5) full business days after service of an agreement in writing or within five (5) full business days after the adjournment of the Purchaser Member recall meeting, the recall shall be deemed effective and the Director(s) so recalled shall immediately turn over to the Board all records and property of the Association.

6. If a Director who is removed fails to relinquish his or her office or turn over records as required under this section, the circuit court in the county where the Association maintains its principal office may, upon the petition of the Association, summarily order the

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Director to relinquish his or her office and turn over all Association records upon application of the Association.

7. The minutes of the Board meeting at which the Board decides whether to certify the recall are an official Association record. The minutes must record the date and time of the meeting, the decision of the Board, and the vote count taken on each Director subject to the recall. In addition, when the Board decides not to certify the recall, as to each vote rejected, the minutes must identify the parcel identification number for the Lot and the specific reason for each such rejection.

8. When the recall of more than one Director is sought, the written agreement, ballot, or vote at a meeting shall provide for a separate vote for each Director sought to be recalled.

ARTICLE XI

INDEMNIFICATION

Each and every Director and officer of the Association shall be indemnified by the Association against all costs, expenses and liabilities, including attorney and paralegal fees at all trial and appellate levels and postjudgment proceedings, reasonably incurred by or imposed upon him in connection with any negotiation, proceeding, arbitration, litigation or settlement in which he becomes involved by reason of his being or having been a Director or officer of the Association, and the foregoing provision for indemnification shall apply whether or not such person is a Director or officer at the time such cost, expense or liability is incurred. Notwithstanding the above, in the event of any such settlement, the indemnification provisions provided in this Article XI shall not be automatic and shall apply only when the Board approves such settlement and reimbursement for the costs and expenses of such settlement as being in the best interest of the Association, and in the event a Director or officer admits that he is or is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties, the indemnification provisions of this Article XI shall not apply. The foregoing right of indemnification provided in this Article XI shall be in addition to and not exclusive of any and all rights of indemnification to which a Director or officer of the Association may be entitled under statute or common law.

ARTICLE XII

BYLAWS

The Bylaws shall be adopted by the First Board, and thereafter may be altered, amended or rescinded in the manner provided for in the Bylaws. In the event of any conflict between the provisions of these Articles and the provisions of the Bylaws, the provisions of these Articles shall control.

ARTICLE XIII

AMENDMENTS

A. Prior to the First Conveyance, these Articles may be amended only by an instrument in writing signed by the Declarant and filed in the Office of the Secretary of State of the State of Florida.

B. After the First Conveyance, and prior to the Turnover Date, these Articles may be amended solely by a majority vote of the Board, without the prior written consent of the Members, at a duly called meeting of the Board.

C. After the Turnover Date, these Articles may be amended in the following manner:

1. (a) The Board shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of the Members, which may be at either the Annual Members' Meeting or a special meeting. Any number of proposed amendments may be submitted to the Members and voted upon by them at one meeting.

(b) Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each Member within the time and in the manner provided in the Bylaws for the giving of notice of meetings.

(c) At such meeting, a vote of the Members shall be taken on the proposed amendment(s). The proposed amendment(s) shall be adopted upon receiving the affirmative vote of a majority of the voting interests.

2. An amendment may be adopted by a written statement (in lieu of a meeting) signed by all Members and all members of the Board setting forth their intention that an amendment to the Articles be adopted.

D. These Articles may not be amended without the written consent of a majority of the members of the Board.

E. Notwithstanding any provisions of this Article XIII to the contrary, these Articles shall not be amended in any manner which shall prejudice the rights of: (i) Declarant, without the prior written consent thereto by Declarant, for so long as Declarant holds either a leasehold interest in or title to at least one (1) Lot; and (ii) any "Institutional Mortgagee" (as such term is defined in the CC&Rs) without the prior written consent of such Institutional Mortgagee.

F. Notwithstanding the foregoing provisions of this Article XIII, no amendment to these Articles shall be adopted which shall abridge, amend or alter the rights of Declarant hereunder, including, but not limited to, Declarant's right to designate and select members of the First Board or otherwise designate and select Directors as provided in Article X hereof, nor shall any amendment be adopted or become effective without the prior written consent of Declarant.

G. Any instrument amending these Articles shall identify the particular article or articles being amended and shall provide a reasonable method to identify the amendment being

made. A certified copy of each such amendment shall be attached to any certified copy of these Articles, and a copy of each amendment certified by the Secretary of State shall be recorded amongst the Public Records of the County.

H. Any proposed amendment to these Articles which would affect the Global Surface Water and Storm Water Management System, conservation areas, or water management portions of the common areas shall be submitted to the St. Johns River Water Management District for approval prior to adoption of the amendment.

ARTICLE XIV

REGISTERED OFFICE AND REGISTERED AGENT

The street address of the initial registered office of the Association is 200 South Orange Avenue, Suite 2300, Orlando, Florida 32801 and the initial registered agent of the Association at that address shall be A.G.C. Co.

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of Florida, the undersigned, constituting the incorporator of this Association, has executed these Articles of Incorporation this ___ day of _____ 2005.

A.G.C. CO.

By: _____

Printed name: _____

As its: Vice President

REGISTERED AGENT CERTIFICATE

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

That The Conservatory Property Owners' Association, Inc., desiring to organize under the laws of the State of Florida, with its registered office, as indicated in the Articles of Incorporation at the City of Orlando, County of Orange, State of Florida, has named A.G.C. Co., located at said registered office, as its registered agent to accept service of process and perform such other duties as are required in the State.

ACKNOWLEDGMENT:

Having been named to accept service of process and serve as registered agent for the above-stated Corporation, at the place designated in this Certificate, the undersigned, hereby accepts to act in this capacity, and agrees to comply with the provision of said statute relative in keeping open said office, and further states it is familiar with Section 617.0503, Florida Statutes.

A.G.C. CO.

Print Name: _____

Its Vice President

DATED: _____, 2005

EXHIBIT "C"

**BYLAWS
OF
THE CONSERVATORY PROPERTY OWNERS' ASSOCIATION, INC.**

**BYLAWS
OF
THE CONSERVATORY PROPERTY OWNERS' ASSOCIATION, INC.**

Section 1. Identification of Association

These are the Bylaws of The Conservatory Property Owners' Association, Inc. ("Association") as duly adopted by its Board of Directors ("Board"). The Association is a corporation not for profit, organized pursuant to Chapter 617, Florida Statutes.

1.1. The office of the Association shall be for the present at 1 Hammock Beach Parkway, Palm Coast, Florida, 32137, and thereafter may be located at any place designated by the Board.

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

1.3. The seal of the Association shall bear the name of the Association, the word "Florida" and the words "Corporation Not For Profit."

Section 2. Explanation of Terminology

The terms defined in the Articles of Incorporation of the Association ("Articles") as well as in the Declaration of Covenants, Conditions, and Restrictions for The Conservatory ("Declaration") are incorporated herein by reference and shall appear in initial capital letters each time such terms appear in these Bylaws.

Section 3. Membership; Members' Meetings; Voting and Proxies

3.1. The qualification of Members, the manner of their admission to membership in the Association, the manner of termination of such membership and the voting by Members shall be as set forth in the Articles.

3.2. The Members shall meet annually ("Annual Members' Meeting"). The Annual Members' Meeting shall be held at the office of the Association or at such other place in the County as the Board may determine and on such day and at such time as designated by the Board in the notice of such meeting commencing with the year following the year in which the Articles are filed with the Secretary of State. The purpose of the Annual Members' Meeting shall be to hear reports of the officers, elect members of the Board (when that shall be appropriate as determined by the provisions of the Articles) and transact any other business authorized to be transacted at such Annual Members' Meeting.

3.3. Special meetings (meetings other than the Annual Members' Meeting) of the Members shall be held at any place within the County whenever called by the President or Vice President or by a majority of the Board. A special meeting must be called by such President or Vice President upon receipt of a written request from Members having the right to vote at least one-third (1/3) of the total number of votes entitled to be cast by Members at any such special meeting.

3.4. Except as otherwise provided in the Articles, a written notice of each Members' meeting, whether an Annual Members' Meeting or a special meeting (collectively "Meeting"), shall be given to each Member entitled to vote thereat at his last known address as it appears on the books of the Association and shall be mailed to the said address not less than fourteen (14) days nor more than forty-five (45) days prior to the date of the Meeting. Proof of such mailing shall be given by the affidavit of the person giving the notice. Any notice given hereunder shall state the time and place of the Meeting and the purposes for which the Meeting is called. The notices of all Annual Members' Meetings shall, in addition, specify the number of Directors of the Association to be designated by Declarant and the number of Directors to be elected by the Members, if applicable. Notwithstanding any provisions hereof to the contrary, notice of any Meeting may be waived before, during or after such Meeting by a Member or by the person entitled to vote for such Member by signing a document setting forth the waiver of such notice.

3.5. The Members may, at the discretion of the Board, act by written response in lieu of a Meeting provided written notice of the matter or matters to be agreed upon is given to the Members or duly waived in accordance with the provisions of these Bylaws. Unless some greater number is required under the Conservatory Documents and except as to the election of Directors, which shall be accomplished by plurality vote, the decision of a majority of the votes cast by Members as to the matter or matters to be agreed or voted upon shall be binding on the Members provided a quorum is either present at such Meeting or submits a response if action is taken by written response in lieu of a Meeting, as the case may be. The notice with respect to actions to be taken by written response in lieu of a Meeting shall set forth the time period during which the written responses must be received by the Association.

3.6. (a) A quorum of the Members shall consist of Members entitled to cast thirty percent (30%) of the total number of votes of the Members. Limited "Proxies" and general "Proxies" (as hereinafter defined in Paragraph 3.10) may be used to establish a quorum.

(b) When a quorum is present at any Meeting and a question which raises the jurisdiction of such Meeting is presented, the holders of a majority of the voting rights present in person or represented by written Proxy shall be required to decide the question. However, if the question is one upon which a vote other than the majority vote of a quorum is required by express provision of the Conservatory Documents or by law, then such express provision shall govern and control the required vote on the decision of such question.

3.7. At any Annual Members' Meeting when elections of Directors are to occur, written ballots are to be supplied to Members for such purposes. Members may not vote for Directors by Proxy, but may vote by absentee ballot. Furthermore, at any Annual Members' Meeting at which Directors are to be elected, the "Chairman" (as hereinafter defined in Paragraph 7.2) shall appoint an "Election Committee" consisting of three (3) Members to supervise the election, count and verify ballots, disqualify votes if such disqualification is justified under the circumstances and certify the results of the election to the Board. The Election Committee shall be able to determine questions within its jurisdiction by plurality vote of all three (3) members, but matters resulting in deadlocked votes of the Election Committee shall be referred to the entire Board for resolution.

3.8. If a quorum is not in attendance at a Meeting, the Members who are present, either in person or by Proxy, may adjourn the Meeting from time to time until a quorum is present with no further notice of such adjourned Meeting being required unless otherwise determined by the Board.

3.9. Minutes of all Meetings shall be kept in a businesslike manner and be available for inspection by the Members and Directors at all reasonable times. The Association shall retain minutes for at least seven (7) years subsequent to the date of the meeting the minutes reflect.

3.10. Voting rights of Members shall be as stated in the Articles with respect to the election of all Boards other than the First Board. Such votes may be cast in person or by absentee ballot. Proxies may be used to vote on other agenda items at meetings at which Directors are to be elected, and may also be used to establish a quorum. "Proxy" is defined to mean an instrument containing the appointment of a person who is substituted in the place and stead of the person or authorized representative of an entity entitled to vote. Proxies shall be in writing signed by the person or authorized representative of an entity giving the same and shall be valid only for the particular Meeting designated therein and, if so stated in the Proxy, any adjournments thereof, provided, however, any proxy automatically expires ninety (90) days after the date of the meeting for which it was originally given. A Proxy must be filed with the Secretary of the Association before the appointed time of the Meeting in order to be valid. Any Proxy may be revoked prior to the time a vote is cast in accordance with such Proxy.

3.11. The voting on any matter at a Meeting shall be by secret ballot upon request of the holders of ten percent (10%) of the votes represented at such Meeting and entitled to be cast on such matter, if such request is made prior to the vote in question.

3.12. Members have the right to attend all Meetings and to speak for at least three (3) minutes at any Meeting with reference to all items opened for discussion or included on the agenda. A Member may speak to any item if such Member submits to the Association a written request to speak prior to the Meeting. The Association may adopt written rules governing the frequency, duration, and other manner of Member and parcel owner statements.

Section 4. Board; Directors' Meetings

4.1. The business and administration of the Association shall be by its Board.

4.2. The election and, if applicable, designation of Directors shall be conducted in accordance with the Articles. Except for Declarant-appointed Directors, Directors must be Members or the parents, children or spouses of Members.

4.3. (a) Any person elected or designated as a Director shall have all the rights, privileges, duties and obligations of a Director of the Association.

(b) The term of a Director's service shall be as stated in the Articles and, if not so stated, shall extend until the next Annual Members' Meeting and thereafter until

his successor is duly elected and qualified or until he resigns or is removed in the manner elsewhere provided.

4.4. The organizational meeting of a newly elected Board shall be held within ten (10) days of its election at such place and time as shall be fixed by the Directors at the meeting at which they were elected. Provided the organizational meeting is held directly following the Annual Members' Meeting, no further notice of the organizational meeting shall be necessary; if not, however, notice of the organizational meeting shall be given in accordance with Section 720.303(2), Florida Statutes.

4.5. Regular meetings of the Board may be held at such times and places in the County as shall be determined from time to time by a majority of the Directors. Special meetings of the Board may be called at the discretion of the President or the Vice President. Special meetings must be called by the Secretary at the written request of at least one-third (1/3) of the Directors. Any such special meeting may be held in the County at such time and place as determined by the Directors requesting such meeting or in such other place as all of the Directors shall agree upon.

4.6. Notice of the time and place of regular and special meetings of the Board, or adjournments thereof, shall be given to each Director personally or by mail, telephone or telegraph at least three (3) days prior to the day named for such meeting unless such notice is waived before, during or after such meeting. Any Director may waive notice of the meeting in writing before, during or after a meeting and such waiver shall be deemed equivalent to the receipt of notice by such Director.

4.7. Notice of all Board meetings shall be given to the Members in accordance with Section 720.303(2), Florida Statutes.

4.8. A quorum of the Board shall consist of the Directors entitled to cast a majority of the votes of the entire Board. Matters approved by a majority of the Directors present at a meeting at which a quorum is present shall constitute the official acts of the Board, except as may be otherwise specifically provided by law, by the Articles or elsewhere herein. If at any meeting of the Board there shall be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any meeting that takes place on account of a previously adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted. In the case of the adjournment of a meeting, no further notice of the adjourned meeting need be given unless otherwise determined by the Board.

4.9. The presiding officer at all Board meetings shall be the President. In the absence of the President, the Directors shall designate any one of their number to preside.

4.10. Directors' fees, if any, shall be determined by the Members.

4.11. Minutes of all meetings of the Board shall be kept in a businesslike manner and be available for inspection by Members and Directors at all reasonable times. Minutes shall be maintained in written form or in another form that can be converted into written

form within a reasonable time. A vote or abstention from voting in each matter voted upon for each Director present at a Board meeting must be recorded in the minutes.

4.12. The Board shall have the power to appoint an "Executive Committee(s)" of the Board consisting of not less than three (3) Directors. An Executive Committee(s) shall have and exercise such powers of the Board as may be delegated to such Executive Committee(s) by the Board.

4.13. Meetings of the Board shall be open to all Members and Members shall have the right to speak for at least three (3) minutes on any matter placed on the agenda by petition of the voting interests. The Board may adopt written reasonable rules concerning the right of Members to speak and governing the frequency, duration, and other manner of Member statements. The Board may also hold closed meetings to the extent permitted by applicable law, including, by way of example but not by way of limitation, when the discussion at a meeting is governed by attorney-client privilege. In the event a Member not serving as a Director or not otherwise invited by the Directors to participate in a meeting attempts to become more than a mere observer at the meeting or conducts himself in a manner detrimental to the carrying on of the meeting, then any Director may expel said Member from the meeting by any reasonable means which may be necessary to accomplish said Member's expulsion. Also, any Director shall have the right to exclude from any meeting of the Board any person who is not able to provide sufficient proof that he is a Member or a duly authorized representative, agent or proxy holder of a Member, unless said person has been specifically invited by any of the Directors to participate in such meeting.

4.14. Any action required or permitted to be taken at a meeting of the Directors may be taken without a meeting if a consent in writing, specifically setting forth the action to be taken, shall be signed by all the Directors entitled to vote with respect to the subject matter thereof and such consent shall have the same force and effect as a unanimous vote of the Directors; provided, however, whenever Assessments are to be considered or when rules that regulate the use of Committed Property may be adopted, amended or revoked, they may be considered only at a meeting of the Directors properly noticed to all the Members in accordance with Section 720.303(2), Florida Statutes. Section 720.303(2), Florida Statutes, requires at a minimum that (i) written notice containing a description regarding the nature of Assessments to be considered or levied be provided to all Members at least fourteen (14) days before such meeting of the Board, (ii) written notice containing a description regarding the nature of Special Assessments to be considered or levied be mailed, delivered or electronically transmitted to all Members and posted conspicuously on the Association Property not less than fourteen (14) days before such meeting of the Board, or (iii) written notice containing a statement that changes to the rules regarding the use of the Committed Property will be considered, adopted, amended, or revoked be mailed, delivered or electronically transmitted to all Members and posted conspicuously on the Association Property not less than fourteen (14) days before such meeting of the Board.

4.15 If twenty percent (20%) of the total voting number of votes of the Members petition the Board to address an item of business, the Board shall at its next regular Board meeting or at a special meeting of the Board, but in no event later than sixty (60) days

after the receipt of the petition, take the petitioned item up on the Board's agenda. The Board shall give all members notice of the meeting, in accordance with Section 720.303(2), Florida Statutes. Each Member shall have the right to speak for three (3) minutes on each matter placed on the agenda by petition, provided that the Member signs the sign-up sheet, if one is provided, or submits a written request to speak prior to the meeting. Other than addressing the petitioned item at the meeting, the Board is not obligated to take any other action requested by the petition.

Section 5. Powers and Duties of the Board

5.1. All of the powers and duties of the Association shall be exercised by the Board. Such powers and duties of the Board shall include, but not be limited to, all powers and duties set forth in the Conservatory Documents, as well as all of the powers and duties of a director of a corporation not for profit not inconsistent therewith.

5.2. The Association may employ a manager to perform any of the duties, powers or functions of the Association. Notwithstanding the foregoing, the Association may not delegate to the manager the power to conclusively determine whether the Association should make expenditures for capital additions or improvements chargeable against the Association funds. The members of the Board shall not be personally liable for any omission or improper exercise by the manager of any duty, power or function delegated to the manager by the Association.

Section 6. Late Fees

An Owner who fails to timely pay any Assessment shall be charged a late charge of One Hundred Dollars (\$100) by the Association for such late Assessment. Owners shall be responsible to pay all legal fees (including, but not limited to, attorney and paralegal fees and court costs) incurred in connection with the collection of late Assessments whether or not an action at law to collect said Assessments and foreclose the Association's lien has been commenced. The Board has authorized the following initial schedule of fees for such circumstances:

- (a) One Hundred Fifty Dollars (\$150) for a Claim of Lien plus recording costs and sending of Notice of Intention to Foreclose;
- (b) One Hundred Dollars (\$100) for a Satisfaction of Lien plus recording costs; and
- (c) Any further action would require an hourly computation of attorney and/or paralegal time spent pursuing collection of such unpaid Assessments.

Section 7. Officers of the Association

7.1. Executive officers of the Association shall be the President, who shall be a Director, one or more Vice Presidents, a Treasurer and a Secretary, all of whom shall be elected annually by the Board. Any officer may be removed without cause from office by vote of the Directors at any meeting of the Board. The Board may, from time to time, elect such other

officers and assistant officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association. One person may hold any two offices simultaneously, except when the functions of such offices are incompatible, but no person shall hold the office of President and any of the following offices simultaneously: Vice President, Secretary or Assistant Secretary.

7.2. The President shall be the chief executive officer of the Association. He shall have all of the powers and duties which are usually vested in the office of the President of an association or a corporation not for profit, including, but not limited to, the power to appoint such committees from among the Members at such times as he may, in his discretion, determine appropriate to assist in the conduct of the affairs of the Association. If in attendance, the President ("Chairman") shall preside at all meetings of the Board and the Members; provided, however, that the President may appoint a substitute.

7.3. In the absence or disability of the President, a Vice President shall exercise the powers and perform the duties of the President. If there is more than one (1) Vice President, the Board shall designate which Vice President is to perform which duties. The Vice President(s) shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Board. In the event there shall be more than one Vice President elected by the Board, then they shall be designated "First," "Second," *etc.*, and shall exercise the powers and perform the duties of the presidency in such order.

7.4. The Secretary shall keep the minutes of all meetings of the Board and the Members, which minutes shall be kept in a businesslike manner and be available for inspection by Members and Directors at all reasonable times. The Secretary shall have custody of the seal of the Association and affix the same to instruments requiring such seal when duly authorized and directed to do so. The Secretary shall be custodian for the corporate records of the Association, except those of the Treasurer, and shall perform all of the duties incident to the office of Secretary of the Association as may be required by the Board or the President. The Assistant Secretary, if any, shall perform the duties of the Secretary when the Secretary is absent and shall assist the Secretary under the supervision of the Secretary.

7.5. The Treasurer shall have custody of all of the monies of the Association, including funds, securities and evidences of indebtedness. The Treasurer shall keep the assessment rolls and accounts of the Members and shall keep the books of the Association in accordance with good accounting practices and he shall perform all of the duties incident to the office of the Treasurer. The Assistant Treasurer, if any, shall perform the duties of the Treasurer when the Treasurer is absent and shall assist the Treasurer under the supervision of the Treasurer.

7.6. The compensation, if any, of the officers and other employees of the Association shall be fixed by the Board. This provision shall not preclude the Board from hiring a Director as an employee of the Association or preclude contracting with a Director or a party affiliated with a Director for the management or performance of contract services for all or any part of The Conservatory.

Section 8. Resignations

Any Director or 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. The conveyance of all Lots owned by any Director or officer (other than appointees of Declarant) shall constitute a written resignation of such Director or officer.

Section 9. Accounting Records; Fiscal Management

9.1. The Association shall prepare an annual financial report within sixty (60) days after the close of the fiscal year. The financial report of the Association shall be prepared as follows:

(a) If the Association meets the criteria of this subparagraph the Association shall prepare or cause to be prepared a complete set of financial statements in accordance with Generally Accepted Accounting Principles. The financial statements shall be based upon the Association's total annual revenues, as follows:

1. If the Association has total annual revenues of \$100,000.00 or more, but less than \$200,000.00, the Association shall prepare compiled financial statements.

2. If the Association has total annual revenues of at least \$200,000.00, but less than \$400,000.00, the Association shall prepare reviewed financial statements.

3. If the Association has total annual revenues of \$400,000.00, or more, the Association shall prepare audited financial statements. The auditor of the Association's financial statements shall be determined by a vote of the Board.

(b) If the Association meets the criteria of this paragraph the Association shall prepare or cause to be prepared a complete set of financial statements in accordance with the following provisions:

1. If the Association has total annual revenues of less than \$100,000.00, the Association shall prepare a report of cash receipts and expenditures.

2. The report of cash receipts and expenditures must disclose the amount of receipts by accounts and receipt classifications and the amount of expenses by accounts and expense classifications, including, but not limited to, the following, as applicable: costs for security, professional, and management fees and expenses; taxes; costs for recreation facilities; expenses for refuse collection and utility services; expenses for lawn care; costs for building maintenance and repair; insurance costs; administration and salary expenses; and reserves if maintained by the association.

(c) If twenty percent (20%) of the total number of votes of the Members petition the Board for a level of financial reporting higher than that required by this Section 9, the Association shall duly notice and hold a meeting of Members within thirty (30) days of receipt of the petition for the purpose of voting on raising the level of reporting for that fiscal

year. Upon approval of a majority of the number of votes of the Members, the Association shall prepare or cause to be prepared, shall amend the budget or adopt a Special Assessment to pay for the financial report regardless of any provision to the contrary in the governing documents, and shall provide within ninety (90) days of the meeting or the end of the fiscal year, whichever occurs later:

1. Compiled, reviewed, or audited financial statements, if the Association is otherwise required to prepare a report of cash receipts and expenditures;

2. Reviewed or audited financial statements, if the Association is otherwise required to prepare compiled financial statements; or

3. Audited financial statements if the Association is otherwise required to prepare reviewed financial statements.

(d) If approved by a majority of the Members present at a properly called meeting of the Association, the Association may prepare or cause to be prepared:

1. A report of cash receipts and expenditures in lieu of a compiled, reviewed, or audited financial statement;

2. A report of cash receipts and expenditures or a compiled financial statement in lieu of a reviewed or audited financial statement; or

3. A report of cash receipts and expenditures, a compiled financial statement, or a reviewed financial statement in lieu of an audited financial statement.

9.2. The Association's accounting records shall be open to inspection by Members and Institutional Mortgagees or their respective authorized representatives at reasonable times. Such authorization as a representative of a Member must be in writing and signed by the person giving the authorization and dated within sixty (60) days of the date of the inspection. Such records shall include, but not be limited to: (i) a record of all receipts and expenditures; (ii) an account for each Lot within The Conservatory which shall designate the name and address of the Owner thereof, the amount of Individual Lot Assessments and all other Assessments, if any, charged to the Lot, the amounts and due dates for payment of same, the amounts paid upon the account and the dates paid, and the balance due; (iii) any tax returns, financial statements and financial reports of the Association; and (iv) any other records that identify, measure, record or communicate financial information.

9.3. The Board shall adopt a Budget (as defined and provided for in the Declaration) of the anticipated Operating Expenses for each forthcoming calendar year (the fiscal year of the Association being the calendar year) at a special meeting of the Board ("Budget Meeting") called for that purpose to be held during the month of November of the year preceding the year to which the Budget applies. Notice of such special meeting of the Board, at which Assessments or Special Assessments will necessarily be considered or levied, shall be properly noticed to all Members in accordance with Section 720.303(2), Florida Statutes, which among other requirements requires fourteen (14) day written notice to the Members containing a

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statement regarding the nature of the Assessments or Special Assessments to be considered or levied. Prior to the Budget Meeting, a proposed Budget for the Operating Expenses shall be prepared by or on behalf of the Board. Within thirty (30) days after adoption of the Budget, a copy thereof shall be furnished to each Member, upon request, and each Owner shall be given notice of the Individual Lot Assessment applicable to his Lot(s). The copy of the Budget, if requested, shall be deemed furnished and the notice of the Individual Lot Assessment shall be deemed given upon its delivery or upon its being mailed to the Owner shown on the records of the Association at his last known address as shown on the records of the Association.

9.4. In administering the finances of the Association, the following procedures shall govern: (i) the fiscal year shall be the calendar year; (ii) any monies received by the Association in any calendar year may be used by the Association to pay expenses incurred in the same calendar year; (iii) there shall be apportioned between calendar years on a *pro rata* basis any expenses which are prepaid in any one calendar year for Operating Expenses, which cover more than such calendar year; (iv) Assessments shall be made quarterly in amounts no less than are required to provide funds in advance for payment of all of the anticipated current Operating Expenses and for all unpaid Operating Expenses previously incurred; and (v) items of Operating Expenses incurred in a calendar year shall be charged against income for the same calendar year regardless of when the bill for such expenses is received. Notwithstanding the foregoing, the Assessments for Operating Expenses, and any periodic installments thereof shall be of sufficient magnitude to insure an adequacy and availability of cash to meet all budgeted expenses in any calendar year as such expenses are incurred in accordance with the cash basis method of accounting.

9.5. Individual Lot Assessments shall be payable as provided in the Declaration or any Supplemental Declaration.

9.6. No Board shall be required to anticipate revenue from Assessments or expend funds to pay for Operating Expenses not budgeted or which shall exceed budgeted items, and no Board is required to engage in deficit spending. Should there exist any deficiency which results from there being greater Operating Expenses than monies from Assessments, then such deficits shall be carried into the next succeeding year's Budget as a deficiency or shall be the subject of a Special Assessment or an upward adjustment to the Individual Lot Assessment.

9.7. The depository of the Association shall be such bank or banks as shall be designated from time to time by the Board in which the monies of the Association shall be deposited. Withdrawal of monies from such account shall be only by checks signed by such persons as are authorized by the Board.

9.8. A report of the accounts of the Association shall be made annually by an accountant and a copy of the report shall be furnished to each Member who requests same in writing no later than the first day of April of the year following the year for which the report is made. The report shall be deemed to be furnished to the Member upon its delivery or mailing to the Member at his last known address shown on the records of the Association.

Section 10. Rules and Regulations

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The Board may at any meeting of the Board consider and adopt rules and regulations or amend, modify, rescind or revoke then existing rules and regulations for the operation of The Conservatory; provided, however, that such rules and regulations are not inconsistent with the terms or provisions of the Conservatory Documents and that notice of any meeting of the Board at which rules regulating the use of the Committed Property will be considered, adopted, amended, modified, rescinded or revoked is provided to the Members in accordance with Section 720.303(2), Florida Statutes, which among other requirements requires fourteen (14) day written notice to the Members containing a statement concerning the nature of the proposed changes to the rules. Copies of any rules and regulations promulgated, amended or rescinded shall be mailed or delivered to all Members at the last known address for such Members as shown on the records of the Association at the time of such delivery or mailing and shall not take effect until forty-eight (48) hours after such delivery or mailing, or, in the event both forms of notification are used, whichever is later. Notwithstanding the foregoing, when rules and regulations are to regulate the use of a specific portion of the Association Property, same shall be conspicuously posted at such facility and such rules and regulations shall be effective immediately upon such posting. Care shall be taken to insure that posted rules and regulations are conspicuously displayed and easily readable and that posted signs or announcements are designed with a view toward protection from weather and the elements. Posted rules and regulations which are torn down or lost shall be promptly replaced.

Section 11. Parliamentary Rules

The then latest edition of Robert's Rules of Order shall govern the conduct of all meetings of the Members and the Board; provided, however, if such rules of order are in conflict with any of the Conservatory Documents, Robert's Rules of Order shall yield to the provisions of such instrument.

Section 12. Roster of Owners

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

Section 13. Amendment of the Bylaws

13.1. These Bylaws may be amended as hereinafter set forth in this Section 13.

13.2. After the Turnover Date, any Bylaw of the Association may be amended or repealed, and any new Bylaw of the Association may be adopted by either:

(a) a majority vote of the Members at any Annual Members' Meeting or any special meeting of the Members called for that purpose or by majority action of the Members who have acted by written response in lieu of a Meeting as permitted by these Bylaws;
or

(b) by the affirmative vote of a majority of the Directors then in office at any regular meeting of the Board or at any special meeting of the Board called for that purpose or by written instrument signed by all of the Directors as is permitted by these Bylaws, provided that the Directors shall not have any authority to adopt, amend or repeal any Bylaw if such new Bylaw or such amendment or the repeal of a Bylaw would be inconsistent with any Bylaw previously adopted by the Members.

13.3. Notwithstanding any of the foregoing provisions of this Section 13 to the contrary, until the Turnover Date, all amendments or modifications to these Bylaws and adoption or repeal of Bylaws shall only be made by action of the First Board as described in the Articles, which First Board shall have the power to amend, modify, adopt and repeal any Bylaws without the requirement of any consent, approval or vote of the Members.

13.4. Notwithstanding the foregoing provisions of this Section 13, there shall be no amendment to these Bylaws which shall abridge, amend or alter the rights of: (i) Declarant, without the prior written consent thereto by Declarant for so long as Declarant holds title to at least one (1) Lot; or (ii) any Institutional Mortgagee without the prior written consent of such Institutional Mortgagee.

13.5. Any instrument amending, modifying, repealing or adding Bylaws shall identify the particular section or sections affected and give the exact language of such modification, amendment or addition or of the provisions repealed. A copy of each such amendment, modification, repeal or addition attested to by the Secretary or Assistant Secretary of the Association shall be recorded amongst the Public Records of the County.

Section 14. Interpretation

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

THE CONSERVATORY PROPERTY OWNERS'
ASSOCIATION, INC.

By: _____
John R. Asp, President

Attest: _____
Chris Abdalla, Secretary

[CORPORATE SEAL]

EXHIBIT "D"

INITIAL RULES AND REGULATIONS

The purpose of the Rules and Regulations is not to anticipate all acceptable or unacceptable behavior in advance and eliminate all improvements or activities which fall outside of "the norm." In fact, it is expressly intended that Board have discretion to approve or disapprove items, or to enforce or not enforce technical violations of the Conservatory Documents, based upon aesthetic or other considerations consistent with the established guidelines. The exercise of discretion in approving or enforcement shall not be construed as a waiver of approval or enforcement rights, nor shall it estop the Board from taking enforcement action in any appropriate circumstances.

Subject to the above, the following restrictions shall apply to all of the Committed Property (exclusive of the Club Property) until such time as they are amended, modified, repealed, or limited in accordance with the Conservatory Documents.

(a) **Animals and Pets.** No animals of any kind, including livestock and poultry, shall be raised, bred, or kept on any portion of the Committed Property, except that a reasonable number of usual and common household pets, as determined in the Board's discretion, may be kept on a Lot and that pit bulls are prohibited. Upon the Board's request, an Owner, at his or her expense, shall remove any pet which is permitted to roam free, or, in the Board's discretion, endangers health, makes objectionable noise, or constitutes a nuisance or inconvenience to other Owners or residents of any portion of the Committed Property. If the Owner fails to honor such request, the Board may cause the pet to be removed at the Owner's expense. No animals shall be kept, bred, or maintained for any commercial purpose. Pets shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside a structure.

(b) **Wildlife.** Capturing, harassing, killing, feeding, or trapping wildlife is prohibited within the Committed Property, except in circumstances imposing an imminent threat to the safety of persons or pets. Provided, however, bird feeders may be installed in the rear of a Lot.

(c) **Firearms; Fireworks.** The use and discharge of firearms within the Committed Property is prohibited. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size. The use and discharge of fireworks is prohibited except by license granted by the Association.

(d) **Nuisances.** No Owner shall engage, or allow any of such Owner's family members, guests, or invitees to engage, in any activity which constitutes a nuisance (meaning offensive or detrimental activity, as determined by the Board), or which materially disturbs or destroys the vegetation, wildlife, or air quality within the Committed Property, or which results in unreasonable levels of sound or light pollution.

(e) **Garages.** Garage doors shall remain closed except for temporary periods reasonably related to the active use of the garage, as determined in the Board's discretion. A

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garage or carport may not be converted to finished space for use as an apartment, an integral part of the Lot's living area, or for purposes other than parking vehicles and ancillary storage, without prior approval of the ACB.

(f) Exterior Lighting. Excessive exterior lighting on any Lot is prohibited. The Board in its discretion shall determine whether any exterior lighting is excessive.

(g) Storage of Goods. Storage (except in approved structures or containers) of furniture, fixtures, appliances, machinery, equipment, or other goods and chattels on the Association Property, or, if not in active use, on any portion of a Lot which is visible from outside the Lot is prohibited.

(h) Prohibited Conditions. The following conditions, structures, or activities are prohibited on any Lot:

(i) Dogs runs and animal pens of any kind, unless properly screened and approved by the ACB;

(ii) Detached shacks, storage sheds or other structures of a temporary nature on any Lot except as may be authorized by Declarant during the initial construction of improvements within the Committed Property. Temporary structures used during the construction or repair of a dwelling or other improvements shall be removed immediately after the completion of construction or repair. Storage sheds may be permitted subject to prior approval by the ACB and compliance with applicable Guidelines;

(iii) Freestanding flagpoles; provided, flags may be displayed using a bracket or other approved device mounted to a dwelling so long as the size of the flag displayed does not exceed a standard size (as set forth in the Guidelines or determined in the Board's discretion and set forth in a Board rule);

(iv) Outdoor athletic and recreational facilities such as playscapes, swing sets, and sport courts (including basketball hoops), unless approved in advance by the ACB (proper screening may be required for any such facilities); and

(v) Outside clotheslines or other outside facilities for drying or airing clothes.

In any event, and notwithstanding the above list of prohibited conditions, any structure, improvement, or thing proposed for construction, erection, installation, or placement on a Lot requires prior ACB approval, unless specifically made exempt under the Guidelines.

Any condition, structure, improvement, or thing permitted to be placed, constructed, erected, or installed on a Lot, including those described above, shall be maintained in good condition at all times in compliance with the Committed Property-Wide Standard.

(i) Quiet Enjoyment. Nothing shall be done or maintained on any part of a Lot which emits foul or obnoxious odors outside the Lot or creates noise or other conditions which tend to

disturb the peace, quiet, safety, comfort, or serenity of the occupants and invitees of other portions of the Committed Property.

No noxious, illegal, or offensive activity shall be carried on upon any portion of the Committed Property which, in the Board's reasonable determination, tends to cause embarrassment, discomfort, annoyance, or nuisance to others.

(j) Signs. No sign shall be erected within the Committed Property, except those required by law, including posters, circulars, and billboards; provided, the following types of signs may be erected on a Lot without the Board's written consent: (i) residential identification signs of a face area of 75 square inches or less for identification of the occupant and its address, in a style designated by the Guidelines; and (ii) security signs in a style and location designated in the Guidelines. This restriction shall not apply to entry, directional, and marketing signs installed by or with the consent of Declarant. The Association, with the Board's approval, shall have the right to erect signs on the Association Property.

(k) Holiday Decorations. Owners may display holiday decorations on their Lots if the decorations are of the kinds normally displayed in single family residential neighborhoods, are of reasonable size and scope, and do not disturb other Owners,, residents, and Club Property Owner by excessive light or sound emission or by causing an unreasonable amount of spectator traffic. Permitted decorations may be displayed for such periods as are normal and customary for comparable residential communities, as the Board determines.

(1) Antennas and Satellite Dishes. No antenna, satellite dish, or other device for the transmission or reception of television or radio (including amateur or ham radios) signals is permitted outside the dwelling on a Lot, except as otherwise permitted under Article X, Section 18 of these CC&Rs. An application for the installation of such antenna or other device must be submitted to the ACB for approval and approval will be granted only if the application meets the provisions of Article X, Section 18. The ACB may, from time to time, promulgate rules and regulations governing the installation of antennae and other devices to be included within the Guidelines, provided, however, all such rules and regulations shall be consistent with 47 C.F.R. Part 1, Subpart S, Section 1.4000, as amended, promulgated under the Telecommunications Act of 1996, as amended from time to time. The ACB shall consider any such application on an expedited basis.

Any antennae or apparatus approved by the ACB for installation shall be attached to the roof or exterior of a Home in a location designated by the ACB for the installation of such apparatus, or, if the ACB is unable to designate an appropriate installation location, on the Owner's Home in the best location that allows for acceptable reception yet maximum aesthetic compatibility with the surrounding environment. An Owner will be required to paint the apparatus to match the exterior paint color of the Home, as applicable, if such painting does not void any warranty on the apparatus. In addition, the ACB may requiring the reasonable installation of plants to be placed around the apparatus or some other means of obscuring the apparatus from the view of other owners or persons on the ground.

Notwithstanding the above, Declarant and/or the Association may erect an antenna, satellite dish, or other apparatus for a master antenna, cable, or other communication system for the benefit of all or a portion of the Committed Property, should any master system or systems be used by the Association and require such exterior apparatus.

(m) Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot, except in covered containers of a type, size and style which are pre-approved by the Declarant or specifically permitted under the Guidelines, or as required by the applicable governing jurisdiction. Such containers shall be screened from view outside of the Lot except when they are being made available for collection and then only for the shortest time reasonably necessary to effect such collection. Rubbish, trash, and garbage must be removed from the Lots and may not accumulate on any Lot. Outdoor incinerators may not be kept or maintained on any Lot.

(n) Pool Equipment. All pool equipment stored on any Lot shall be screened from view from outside the Lot.

(o) Unightly or Unkempt Conditions. All portions of a Lot outside enclosed structures shall be kept in a clean and tidy condition at all times. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot in a manner which is unsanitary, unsightly, offensive, or detrimental to any other portion of the Committed Property, as the Board may determine.

Woodpiles or other material shall be properly screened and stored in such a manner so as not to attract rodents, snakes, and other animals and or create a fire hazard, as the Board determines. No activities shall be conducted upon or adjacent to any Lot or within any structure on a Lot which are or might be unsafe or hazardous to any person or property. Open fires are prohibited within the Committed Property, except in a contained outdoor fireplace or barbecue unit while attended and in use for cooking purposes.

(p) Vehicles and Parking. No vehicle may be left upon any portion of the Committed Property except in a garage, driveway, or other area the Board designates. The following vehicles may be parked only in an enclosed garage or other area (if any) the Board designates: any recreational vehicle, mobile home, trailer, camper, boat or other watercraft, any stored vehicle, any commercial vehicle (including all vehicles with commercial lettering or logos), or any unlicensed or inoperable vehicle. "Sports utility vehicles" and "mini-vans" (as such vehicles are commonly referred to, as determined in the Board's discretion) and pick-up trucks without raised enclosures or commercial writing or logos shall be treated as automobiles and may be parked in driveways outside of enclosed garages. This Section shall not apply to emergency vehicle repairs or to construction, service, and delivery vehicles for periods necessary to perform the services or make a delivery.

Notwithstanding the above, for purposes of cleaning, loading, unloading, and short-term and visitor or guest parking, any vehicle may be parked temporarily outside of an enclosed garage or other approved structures for time periods reasonably necessary to perform such task.

The Board, in its discretion, may enact rules governing such temporary, irregular use or, in the absence of specific rules, shall have discretion in determining what constitutes permissible use.

As used in this Section, the term “vehicles” includes, without limitation, automobiles, trucks, boats, trailers, motorcycles, campers, vans, and recreational vehicles.

(q) Wetlands, Lakes, and Other Water Bodies. Wetlands, lakes, ponds, and streams within the Committed Property, if any, are part of the Committed Property’s Surface and Stormwater Management System, and no active use of lakes, ponds, streams, or other bodies of water within the Committed Property is permitted. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds, streams, or other bodies of water within or adjacent to the Committed Property.

(r) Solar Equipment. No solar heating equipment or device is permitted outside the dwelling or other structures on the Lot except for pool heaters and such devices whose installation and use is protected by federal or Florida law. Notwithstanding such protection, an application for any such equipment or device must be submitted for approval to the ACB prior to installation and approval will be granted only if:

(i) First, such equipment or device is designed for minimal visual intrusion when installed (*i.e.*, is located in a manner which minimizes visibility from the street or an adjacent Lot and is consistent with the Community-Wide Standard); and

(ii) Second, the equipment or device complies, to the maximum extent feasible, with the Guidelines within the confines of the applicable governmental regulations.

(s) Fences. Fencing on a Lot must be approved by the ACB. Any fence on a Lot shall be of a material, height and design, and in a location on the Lot as specified in the Guidelines or as the ACB otherwise approves.

**This instrument prepared by
And return to:**

**Baker & Hostetler LLP
200 South Orange Avenue, Suite 2300
P.O. Box 112
Orlando, Florida 32802-0112
Attn: William C. Guthrie, Esq.**

**Joinder and Consent of Mortgagee to the
Declaration of Covenants, Conditions and Restrictions for The Conservatory**

This Joinder and Consent is made and entered into this 28th day of March, 2005, by Colonial Bank N.A., a national banking association ("Mortgagee"), whose address is 1899 S. Clyde Morris Blvd., Daytona Beach, FL 32119.

A. Mortgagee is the owner and holder of that certain Mortgage dated as of February 4, 2005, executed by Ginn-LA Hammock Beach Ltd., LLLP. ("Declarant") for the benefit of Mortgagee, and recorded in Official Records Book 1200, Page 355 of the Public Records of Flagler County, Florida, and/or other loan documents executed in connection with the loan secured by such mortgage (collectively, "Mortgage");

B. The Mortgage encumbers the land and the improvements located thereon, as described in the Declaration of Covenants, Conditions, and Restrictions for The Conservatory ("CC&Rs"), to which this Joinder and Consent is attached; and

C. Mortgagee has agreed to consent to the CC&Rs.

Mortgagee agrees as follows:

1. Mortgagee consents to the execution and recording of the CC&Rs.
2. This Joinder and Consent shall apply and be effective solely to the Committed Property (as defined in the CC&Rs), and nothing herein contained shall otherwise affect, alter, or modify in any manner whatsoever the terms and conditions, lien, operation, effect, and priority of the Mortgage as to the other land and improvements encumbered by the Mortgage, if any.

