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SYD CROSSBY, FLAGLER COUNTY

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DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR
MARSH CROSSING

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR
MARSH CROSSING is made this 3RD day of February, 1999 by GRAND
HAVEN/PALM COAST, INC., a Florida corporation.

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property located in Palm Coast, Flagler County, Florida, and more particularly described in Exhibit "A", attached hereto and incorporated herein by this reference (the "Property") and on which Property is located the development commonly known as Marsh Crossing (the "Development"); and

WHEREAS, Declarant desires to establish covenants, conditions and restrictions to promote efficiencies in administering the various interests which may be represented by property owners within the Development and to provide a flexible mechanism for the administration and maintenance of facilities, amenities and services for the common use and benefit of all owners of any portion of the Property.

NOW, THEREFORE, Declarant hereby declares that all of the Property, together with any additional property as may be added by subsequent amendment hereto and in accordance with the terms and conditions hereof, is subjected to this Declaration of Covenants, Conditions and Restrictions for Marsh Crossing, and shall be held, transferred, sold, conveyed, leased, occupied, and used subject to the following easements, restrictions, covenants, charges, liens, and conditions which are for the purpose of protecting the value and desirability of, and which shall touch and concern and run with title to, the real property subjected to this Declaration and which shall be binding on all parties having any right, title, or interest in the described properties or any portion thereof, and their respective heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE 1. DEFINITIONS

1.1 Definitions. When used in this Declaration, unless the context shall prohibit or otherwise require, the following words, shall have all the following meanings and all definitions shall be applicable to the singular and plural forms of such terms:

(a) "Additional Property" shall mean and refer to the real property as may be added pursuant to Section 2.2, and all improvements thereon.

(b) "Architectural Review Board" shall mean and refer to the board established herein to approve exterior and structural improvements, additions, and changes within the Development as provided in Article 4.

(c) "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of Marsh Crossing Homeowners' Association, Inc., a copy of which is attached hereto as Exhibit "B" and incorporated herein by this reference.

(d) "Assessment" shall mean and refer to an Owner's share of the Common Expenses or other charges from time to time assessed against an Owner by the Association in the manner herein provided, including assessments payable by the Association to the Master Association and the PCCSC.

(e) "Association" shall mean and refer to Marsh Crossing Homeowners' Association, Inc., a Florida not-for-profit corporation.

(f) "Board of Directors" or "Board" shall mean and refer to the Board of Directors of the Association, which is the governing body of the Association.

(g) "By-Laws of the Association" or "By-Laws" shall mean and refer to those By-Laws of Marsh Crossing Homeowners' Association, Inc., which govern the administration and operation of the Association, a copy of which is attached hereto as Exhibit "C" and incorporated herein by this reference.

(h) "Common Areas" shall mean and refer to all real and personal property now or hereafter deeded or leased to, or are the subject of a use agreement with, the Association, and wherein the property therein described is specifically denominated to be a part of the Common Areas. The Common Areas may include the Property's roads, streets, road and street shoulders, parking lots, walkways, sidewalks, leisure trails, bike paths, street lighting, signage, recreational amenities (if any), and such maintenance and drainage areas, easements, lagoons, and ponds as shall not be owned or maintained by the Master Association or the CDD (as hereinafter defined). Subject to the reservations to Declarant set forth herein, all Common Areas are to be devoted to and intended for the common use and enjoyment of the Declarant, Owners, and their respective guests, and visiting members of the general public (to the extent permitted by the Board of Directors of the Association, or required by the terms of any deed, lease, or use agreement) and subject to the fee schedules, if any, and operating rules adopted therefor. Any lands which are leased to, or are the subject of a use agreement with, the Association shall lose their character as Common Areas upon the expiration of such lease or use agreement; provided, however, any such lease or use agreement between the Declarant and the Association shall be extended in whole or in part, notwithstanding any termination provisions therein contained, to provide continued ingress and egress over the Association's streets and roads, if any, to an Owner's property, subject to provisions for the payment of fees and costs for the operation of any security gates and maintenance of roadways by the Association; provided, further, an Owner's access will not be terminated for non-payment, but the Declarant shall have the same rights to file liens and the same remedies as the Association has pursuant to Sections 11.2 and 11.9 with respect to Assessments and Recreational Charges. Notwithstanding anything to the contrary contained in this Declaration, the Common Areas shall not include any portion of the Golf and Country Club Property.

(i) "Covenants" shall mean and refer to these Marsh Crossing Covenants, Conditions and Restrictions, as amended, from time to time, by any Supplemental Declaration filed in the Public Records of Flagler County, Florida.

(j) "Common Expenses" shall mean and refer to all expenditures lawfully made or incurred by or on behalf of the Association, together with all funds lawfully assessed for the creation or maintenance of reserves, pursuant to the provisions of this Declaration.

(k) "Declarant" shall mean and refer to Grand Haven/Palm Coast, Inc., or any successor-in-title to the entire interest of Grand Haven/Palm Coast, Inc. with respect to the Property and the Additional Property at the time of such transfer to said successor-in-title, or any party designated in the Public Records of Flagler County, Florida, to succeed to the rights of Declarant hereunder as to the matters set forth in such writing.

(l) "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, and Restrictions for Marsh Crossing, and all amendments and supplements hereto filed in the Public Records of Flagler County, Florida.

(m) "Dependent Children" shall mean and refer to any Person's unmarried, dependent children under the age of twenty-five (25) who are either living at home with such Person or attending school on a full-time basis.

(n) "Development" shall mean and refer to the Property and all improvements located or constructed thereon, and being a part of the overall plan, from time to time existing hereunder, for the community known as "Marsh Crossing."

(o) "Development Order" shall mean and refer to the Development Order applicable to the portion of River Club defined in the River Club Development of Regional Impact and adopted pursuant to Section 380.06(20), Florida Statutes, on January 3, 1989 as resolution No. 89-6 of the Board of County Commissioners of Flagler County, Florida, and recorded in Official Records Book 377, Page 507 of the Public Records of Flagler County, Florida, as amended by Amendment to the Development Order adopted as resolution No. 94-27 of the Board of County Commissioners of Flagler County, Florida and recorded in Official Records Book ____, Page ____, as amended by Amendment to the Development Order adopted as resolution No. 97-07 of the Board of County Commissioners of Flagler County, Florida and recorded in Official Records Book 578, Page 320, as amended by Amendment to the Development Order adopted as resolution No. 97-54 of the Board of County Commissioners of Flagler County, Florida and recorded in Official Records Book 590, Page 1375, as same may be further amended and modified from time to time.

(p) "Development Unit Parcel" shall mean and refer to one or more pieces, parcels or tracts of property within the Property conveyed by the Declarant to third parties under covenants and restrictions permitting the division of any such piece, parcel or tract into smaller land units such as Lots, Neighborhood Areas or Multi-Family Tracts. A parcel of land shall not be deemed to be a "Development Unit Parcel" until such time as the exact metes and bounds of the site therefor have been surveyed and a plat thereof identifying or designating such property has been approved by the governmental authority with jurisdiction thereof and has been filed in the Public Records of Flagler County, Florida.

(q) "Dwelling" shall mean and refer to any improved property intended for the use as a single-family detached dwelling or as a townhouse, condominium unit, or patio or cluster home, whether detached or attached, located within the Development.

(r) "Foreclosure" shall mean and refer to, without limitation, the judicial foreclosure of a Mortgage or the conveyance of secured property by a deed in lieu of a judicial foreclosure.

(s) "Golf and Country Club Property" shall mean and refer to all real and personal property designated on the Plat and in this Declaration or now or hereafter established within the Development for use as golf course, golf clubhouse, golf practice range, golf course maintenance, swimming pool, tennis courts, tennis clubhouse, country club or other recreational activities customarily associated with golf and tennis country club operations pursuant to Section 2.6 of this Declaration.

(t) "Institutional Mortgage" shall mean and refer to a Mortgage held by a bank, trust company, insurance company, or other recognized lending institution, or by an institutional or governmental purchaser of mortgage loans in the secondary market, such as Federal National Mortgage Association or Federal Home Loan Mortgage Corporation.

(u) "Lease" shall mean and refer to any lease, sublease, or rental contract, whether oral or written.

(v) "Living Space" shall mean and refer to enclosed and covered areas within a Dwelling, exclusive of garages, carports, porches, terraces, balconies, decks, patios, courtyard, greenhouses, atriums, bulk storage areas, attics and basements.

(w) "Lot" shall mean and refer to any unimproved portion of the Property upon which a Dwelling intended for use as a single-family detached residence shall be constructed, as such Lot is shown on the site plan therefor. A parcel of land shall be deemed unimproved and thus considered to be a Lot, rather than a Dwelling, until the improvements constructed thereon are sufficiently complete to reasonably permit habitation thereof. Upon such completion, such parcel and the improvements thereon shall collectively be considered to be a Dwelling for purposes of this Declaration.

(x) "Master Association" shall mean and refer to the Grand Haven Master Association, with respect to which the Association is a "Subordinate Association" pursuant to that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for Grand Haven Master Association recorded June 3, 1996 in Official Records Book 557, Pages 1768 through 1796, inclusive, of the Public Records of Flagler County, Florida, and to which the Property is subject.

(y) "Member" shall mean and refer to all those Owners who are Members of the Association as defined in Section 6.1.

(z) "Mortgage" shall mean and refer to a mortgage, security deed, deed of trust, installment lands sales contract, or other similar security instrument granting, creating, or conveying a lien upon, a security interest in, or a security title to a Lot, Dwelling, Multi-Family Tract, Development Unit Parcel, or Unsubdivided Land.

(aa) "Mortgagee" shall mean and refer to the holder of a Mortgage.

(bb) "Multi-Family Tract" shall mean and refer to any unimproved parcel of land within the Property, intended for use as a site for a Neighborhood Area comprised of multi-family dwellings, including, without limitation, condominiums or apartments. A parcel of land shall not be deemed to be a "Multi-Family Tract" until such time as the exact metes and bounds legal description of the site has been surveyed and a plat thereof identifying or designating such property has been approved by the governmental authority with jurisdiction thereof and has been filed in the Public Records of Flagler County, Florida, and further shall be deemed unimproved until the improvements being constructed on said parcel are complete and subject to Assessment as herein provided.

(cc) "Neighborhood Area" shall mean and refer to any portion of the Property, separately developed and denominated by Declarant therefor in a Supplemental Declaration as a residential area comprised of one (1) or more housing types subject to this Declaration in which Owners of Lots or Dwellings therein, or the Occupants of any complex constructed within a Multi-Family Tract intended for use of Tenants, may have common interests other than those common to all Owners of the Development, such as common theme, entry feature, development name, and/or common areas and facilities that are not available for use by all Owners. For example, and by way of illustration and not limitation, an apartment complex, condominium complex, townhouse development, cluster home development, or single-family detached housing development may, upon Declarant filing a Neighborhood Declaration therefor, create a separate Neighborhood Area where common elements are owned by either the Owners residing in such Neighborhood Area as tenants-in-common or by a Neighborhood Association composed of such Owners, or where Lots and Dwellings therein are subject to additional covenants, conditions, restrictions and easements not otherwise applicable to Owners outside of such Neighborhood Area.

(dd) "Neighborhood Association" shall mean and refer to a corporation or an unincorporated association whose shareholders or members are comprised entirely of Owners of Lots or Dwellings within a Neighborhood Area.

(ee) "Neighborhood Declaration" shall mean and refer to any instrument or document, and any amendments thereto, which is filed in the Public Records of Flagler County, Florida, with respect to any Neighborhood Area and which creates a condominium for such Neighborhood Area, creates a homeowners' association for such Neighborhood Area, or imposes covenants, conditions, easements, and restrictions with respect to such Neighborhood Area.

(ff) "Occupant" shall mean and refer to any person, including, without limitation, any Owner or any guest, invitee, lessee, Tenant, or family member of any Owner, occupying or otherwise using a Dwelling within the Development.

(gg) "Owner" shall mean and refer to one or more persons, including Declarant, who or which owns fee simple title to any Lot, Dwelling, Multi-Family Tract, Development Unit Parcel, Golf Course and Country Club Property, or Unsubdivided Land, excluding, however, those persons holding such interest solely as security under a Mortgage. In the event that there is filed in the Public Records of Flagler County, Florida, any installment land sales contract covering any Lot, Dwelling, Multi-Family Tract, Development Unit Parcel, or Unsubdivided Land, the Owner thereof shall be the purchaser under said contract and not the fee simple title holder. An installment land sales contract shall be an instrument whereby the purchaser is required to make payment for such property for a period extending beyond nine (9) months from the date of the contract, and where the purchaser does not receive title to such property until all such payments are made, although the purchaser is given use thereof.

(hh) "PCCSC" shall mean and refer to the Palm Coast Community Service Corporation, a Florida not-for-profit corporation, its successors and assigns.

(ii) "PCCSC Declaration" shall mean and refer to that certain Declaration of Restrictions and Protective Covenants for River Club filed in Official Records Book 539, Page 238 of the Public Records of Flagler County, Florida, and to which the Property is subject.

(jj) "Person" shall mean and refer to a natural person, corporation, partnership, association, trust, or other legal entity, or any combination thereof.

(kk) "Plat" shall mean and refer to the Plat recorded in Plat Book _____, Pages _____ of the Public Records of Flagler County, Florida, as same may be modified and amended.

(ll) "Property" shall mean and refer to those tracts or parcels of land described on Exhibit "A", together with all improvements thereon, and, upon submission to the provisions of this Declaration, the Additional Property which may be added pursuant to Section 2.2, or any portion thereof; together with all improvements thereon.

(mm) "Recreational Amenities" shall include only such recreational facilities and improvements as are, from time to time, located within and a part of the Common Areas and the easement areas established pursuant to Section 5.8, and as are specifically designated in writing by the Declarant as being Recreational Amenities, including such amenities as community docks, parks, lagoons, leisure trails, bike paths and gardens, and such other facilities and services as may be designated by the Declarant from time to time for the use and benefit of the Owners of Lots and Dwellings as set forth in Section 5.3. Notwithstanding anything to the contrary contained in this Declaration, the Recreational Amenities shall not include any amenities included within the Golf and Country Club Property nor shall they include any such amenities located within the Development which are owned or maintained by the CDD.

(nn) "Recreational Charges" shall mean and refer to all fees, rentals, costs, and other charges which are charged by or to an Owner with respect to his use or the use by his family, Tenants, or guests of the Recreational Amenities or for the purchase of services or goods provided or sold in connection with the Recreational Amenities.

(oo) "Supplemental Declaration" shall mean and refer to any amendment to these Covenants filed in the Public Records of Flagler County, Florida, which subjects Additional Property to these Covenants or which makes any changes hereto.

(pp) "Surface Water Management System" shall mean and refer to all land, easements and other facilities and appurtenances which together constitute and comprise the master surface water management and drainage system with respect to the Development as reflected on the plans therefor approved by Flagler County, Florida, and the St. John's River Water Management District (hereinafter the "SJRWMD") pursuant to Permit No. 4-035-0018AE (as same may be modified and amended). Drainage improvements have been or will be conveyed by the Declarant to the Association as Common Area pursuant to the provisions of Section 2.3 of this Declaration or otherwise dedicated to the Association as Common Area pursuant to the Plat.

(qq) "Tenant" shall mean and refer to a Person holding a lease with an Owner of a Lot or Dwelling of six (6) months or more, or with respect to which there is a holding over on a month-to-month basis following the expiration of such minimum six (6) month period.

(rr) "Turnover Date" shall mean the date Declarant relinquishes control of the Association pursuant to Section 6.2 and Section 10.1.

(ss) "Unsubdivided Land" shall mean and refer to all land in the Property, and the Additional Property as may be subjected to this Declaration, which has not been subdivided into or designated as Lots, Neighborhood Areas, Multi-Family Tracts or Development Unit Parcels, through metes and bounds subdivision plats filed in the Public Records of Flagler County, Florida. For the purposes of this Declaration, all lands committed to the Association through express written notification by the Declarant to the Association of intent to convey in any manner provided herein and all lands below the mean high-water mark of tidally influenced waterways and the ordinary high-water mark of non-tidally influenced waterways shall not be deemed "Unsubdivided Land" and shall be expressly excepted from the definition thereof.

ARTICLE 2. THE GENERAL PLAN FOR MARSH CROSSING

2.1 Plan of Development of The Property. The Property shall initially contain thirty-eight (38) Lots as shown on the Plat, and one Dwelling may be constructed on each such Lot. The Property shall also include the Common Areas, including Recreational Amenities (if any), and the roads, utility systems, Surface Water Management Systems, and other improvements serving the Lots and Dwellings, to the extent the same are installed and existing. Moreover, the Property may include Golf Course and Country Club Property as designated on the Plat. The dimensions of the Lots shall be shown on the Plat. All Lots within the Development shall be and are hereby restricted exclusively to single-family residential use and shall be subject to the standards and restrictions set forth in Article 4 hereof. Without the consent of any person, Declarant shall have the right, but not the obligation, for so long as Declarant has the right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association pursuant to Sections 10.1 and 13.1 to make improvements and changes to all Common Areas, Golf and Country Club Property, Recreational Amenities, and to all such properties owned by Declarant, including, without limitation, (a) installation and maintenance of any improvements, (b) changes in the location of the boundaries of any such properties owned by Declarant, (c) installation and maintenance of any water, sewer, and other utility systems and facilities, and (d) installation of security and/or refuse facilities. Declarant shall have the right to modify and reconfigure portions of the Property owned from time to time by Declarant in accordance with any revisions and modifications of the Plat.

2.2 Additions To Property. Other property may become subject to this Declaration in the following manner:

2.2.1 Additions By Declarant. During the period of development, which shall by definition extend from the date this Declaration is filed in the Public Records of Flagler County, Florida, to December 31, 2010, the Declarant shall have the right, without further consent of the Association to bring within the plan and operation of this Declaration, or to consent thereto, real property contiguous to or in the general vicinity of the Property, whether or not owned by Declarant ("Additional Property"). Such property may be subjected to this Declaration as one parcel or as several smaller parcels at different times. The additions authorized under this subsection shall be made by filing in the Public Records of Flagler County, Florida, a Supplemental Declaration with respect to the Additional Property which shall extend the operation

and effect of the covenants and restrictions of the Declaration to such Additional Property, and which, upon filing in the Public Records of Flagler County, Florida, of a Supplemental Declaration, shall constitute a part of the Property.

(a) The Supplemental Declaration may contain such complementary additions and/or modifications of the covenants and restrictions contained in this Declaration as may be necessary or convenient, in the sole judgment of the Declarant to reflect the different character, if any, of the Additional Property subjected to, and as are not materially inconsistent with, this Declaration, but such modifications shall have no effect on the Property described in Section 2.1 above.

(b) The option reserved under this Section 2.2.1 may be exercised by Declarant only by the execution of a Supplemental Declaration filed in the Public Records of Flagler County, Florida. Any such Supplemental Declaration shall expressly submit the Additional Property or such portion thereof to all or a portion of the provisions of this Declaration, as may be provided therein, and such other covenants, restrictions, conditions and easements as Declarant, in its sole discretion, shall determine.

2.2.2 Other Additions. Upon approval in writing of the Association pursuant to simple majority of the vote of those Members present, in person or by proxy, at a duly called meeting at which a quorum is present, the owner of any property who desires to add it to the plan of these covenants and to subject it to the jurisdiction of the Association, may file in the Public Records of Flagler County, Florida, a Supplemental Declaration with respect to the property to be added, which shall extend the operation and effect of the covenants and restrictions of the Declaration to such property, thereafter constituting a part of the Property.

2.2.3 Additions By Merger. Upon merger or consolidation of the Association with another association, as provided for in the By-Laws of the Association, its property rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or in the alternative, the properties, rights, and obligations of another association may, by operation of law, be added to the properties of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated Association may administer the existing property, together with the covenants and restrictions established upon any other properties, as one plan. No merger or consolidation shall effect any revocation, change, or addition to the covenants established by this Declaration within the Property, including, without limitation, the maximum limits on Assessments and dues of the Association or any other matter substantially affecting the interests of Members of the Association. Lands which become subject to this Declaration under the provisions of this Section 2.2.3 may in the future be referred to as a part of the Property.

2.3 Conveyances Of Common Areas. All parcels of land referred to herein which are denominated by Declarant as Common Areas shall be deeded, leased, or a use agreement with respect thereto shall be executed, by Declarant within two (2) years after the Declarant has completed improvements thereon, if such be required. Upon such conveyance, or upon completion of any improvements thereon by the Declarant, if such be required, such that the facility is functionally complete, the Association shall immediately become responsible for all maintenance, operation and such additional construction of improvements as may be authorized by the Association's Board of Directors. It is the purpose of this provision to provide that the Association shall be responsible for all maintenance of Common Areas upon which all improvements required to be made by the Declarant have been completed, notwithstanding the fact that the Declarant is not obligated to deed, lease or execute a use agreement for such properties until two (2) years after such improvements have been completed thereon. Any such conveyance by the Declarant shall be conveyed subject to:

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- (a) All restrictive covenants filed in the Public Records of Flagler County, Florida, at the time of conveyance; and
- (b) All existing mortgages, provided, however, that in no event shall the Association be obligated to assume the payment of principal or interest on any such mortgages; and
- (c) The right of access of the Declarant, its successors and assigns, over and across such property; and
- (d) The right of the Declarant, its successors and assigns, until the Turnover Date, to approve all structures, construction, repairs, changes in elevation and topography and the location of any object (including vegetation) within the Common Areas prior to the commencement of such activities or location of any object therein. On the Turnover Date, the foregoing right of approval shall automatically be assigned to, and vest in, the Association;
- (e) All utilities and Surface Water Management System easements; and
- (f) All reserved rights set forth in Section 2.1, 2.6, 2.7 and 5.5.

The obligation to make payments of principal and interest in accordance with their due dates on all mortgages affecting property so conveyed to the Association shall continue to be the sole obligation of the Declarant. Notwithstanding anything in the foregoing to the contrary, the Declarant, its successors and assigns, shall not be required to so convey the Common Areas where such conveyance would be prohibited under agreements existing on the date of establishment of such Common Areas, but, in such case, Declarant shall be allowed to postpone such conveyance, without penalty, until such time as said prohibition may be nullified.

In consideration of the benefits accruing to the Association and to the Members under this Declaration and in consideration of the covenants and agreements of the Declarant hereunder, the Association hereby agrees to accept title to any property, or to any interest in property, now or hereafter conveyed to it pursuant to the terms and conditions of this Declaration. Upon the due recording of a deed, easement, lease or other instrument or memorandum of conveyance to the Association in the Public Records of Flagler County, Florida, title or such other interest in property conveyed shall vest in and to the Association without the necessity of any further act, deed or approval of any person, including the grantor, lessor and/or Association. Property interests transferred to the Association by Declarant may include fee simple title, easements, leasehold interests and licenses to use. Any fee simple interest in property transferred to the Association by Declarant shall be transferred to the Association by quit claim deed, subject to the terms of this Declaration, and any and all easements, rights-of-way, reservations, covenants, conditions, restrictions, equitable servitudes and other encumbrances of record or reserved by Declarant in the instrument of conveyance including, but not limited to any access easement reserved by the Declarant or the right to connect any of the streets within the Property. The property or interest in property transferred to the Association by Declarant may impose special restrictions governing the uses of such property and special obligations on the Association with respect to the maintenance of such property. All costs and expenses of any conveyance of any property by Declarant to the Association shall be paid for by the Association.

THE ASSOCIATION SHALL ACCEPT "AS IS" THE CONVEYANCE OF SUCH PROPERTY WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, IN FACT OR BY

LAW, WITH RESPECT THERETO, OR WITH RESPECT TO THE IMPROVEMENTS AND REPAIRS TO BE COMPLETED AFTER THE CONVEYANCE, INCLUDING, WITHOUT LIMITATION, REPRESENTATIONS OR WARRANTIES OF MERCHANTABILITY OR FITNESS FOR THE ORDINARY OR ANY PARTICULAR PURPOSE, AND WITHOUT ANY REPRESENTATIONS OR WARRANTIES REGARDING FUTURE REPAIRS OR REGARDING THE CONDITION, CONSTRUCTION, ACCURACY, COMPLETENESS, DESIGN, ADEQUACY OF THE SIZE OR CAPACITY IN RELATION TO THE UTILIZATION, DATE OF COMPLETION OR THE FUTURE ECONOMIC PERFORMANCE OR OPERATION OF, OR THE MATERIALS OR FURNITURE WHICH HAS BEEN OR WILL BE USED IN SUCH PROPERTY OR REPAIRS, EXCEPT AS SET FORTH HEREIN. BY ACCEPTANCE OF AN INTEREST IN ANY SUCH PROPERTY OR THE DEED TO ANY LOT, THE ASSOCIATION AND ALL OWNERS RELEASE DECLARANT FROM ANY CLAIMS AND WARRANT THAT NO CLAIM SHALL BE MADE BY THE ASSOCIATION OR ANY OWNER RELATING TO THE CONDITION, OR COMPLETENESS OF SUCH PROPERTY OR REPAIRS OR FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING THEREFROM.

Upon the completion by the Declarant of any building, right-of-way, sidewalk, drainage facility, swale, signage, or any other type of improvement on any Common Area, or installation of equipment costing in excess of \$10,000.00, the Declarant, in its sole discretion, may select experts to inspect such improvements to determine whether same have been constructed in substantial compliance with the plans and specifications, as modified by any change orders, and to inspect for construction defects and for governmental code violations and operating condition. The Declarant shall pay the cost of the required inspections. All Owners, by accepting a deed to a Lot, acknowledge and agree to the inspectors selected by the Declarant, whether prior to or after the Turnover Date and agree to abide by said inspectors' determination. The Declarant will make all necessary repairs to such improvements indicated by the inspection reports at its sole cost and expense. The Declarant will have no obligation to make any additional repairs to such improvements other than the repairs indicated as necessary by the inspection reports. The Association and Owners, by acceptance of title to any property or the deed to any Lot release Declarant from any further obligations with respect to repairs to Common Area improvements.

2.4 Neighborhood Areas. In the event that Declarant submits Additional Property or any portion or portions thereof to the terms of this Declaration as Neighborhood Areas, whether composed of Lots or a Multi-Family Tract, there may be established by Declarant, its successors or assigns, Neighborhood Associations limited to the Owners of Lots and Dwellings within the Neighborhood Areas located within such portion or portions of the Additional Property so submitted in order to promote their health, safety, and social welfare, as well as to provide for the maintenance of Dwellings, other improvements, and/or common elements owned by such Owners and/or such Neighborhood Associations, provided that such Owners shall also be Members of the Association and such Lots, Dwellings, and other improvements shall be subject to the terms of this Declaration as are imposed by the Supplemental Declaration with respect thereto. Such Neighborhood Areas may be subject to Neighborhood Declarations which impose covenants and restrictions which are in addition to, but not in abrogation or substitution of, those imposed hereby and applicable thereto, and such Neighborhood Associations may levy additional Assessments and make and enforce supplementary covenants, restrictions, rules, and regulations with respect to such Neighborhood Areas.

2.5 Development Unit Parcels. In the event that Declarant submits the Additional Property or any portion or portions thereof to the terms of this Declaration as Development Unit Parcels, there may be established by Declarant, its successors or assigns, restrictions as to the maximum number and type of improvements which may be developed or constructed thereon, and as shall be permitted in accordance with

the zoning ordinances therefor and the terms and conditions hereof; and such other declarations, covenants and restrictions as shall promote the general health, safety, and social welfare, and provide for the maintenance of improvements and/or common elements to be located thereon. Upon the further division of a Development Unit Parcel into one or more Lots, Dwellings, Neighborhood Areas or Multi-Family Tracts, as permitted by ordinance and the declarations, covenants, restrictions, maximum density and permitted building type established by Declarant, the subject property shall lose its character as a Development Unit Parcel and shall thereafter constitute the type or types of property permitted hereunder and into which it was so further divided.

2.6 Golf and Country Club Property. The Golf and Country Club Property may be improved as and used for (a) golf, tennis, swimming and other recreational activities customarily associated with golf and tennis country club operations, (b) commercial activities reasonably incidental to or customarily associated with golf and tennis country club operations, including food and beverage services, and the recreation and entertainment of country club members and guests, (c) commercial activities reasonably incidental to or customarily associated with golf and tennis pro shops (d) amateur and professional golf and tennis tournaments, and (e) such concessions and other commercial activities as are reasonably incidental to or customarily associated with such golf and tennis tournaments. Notwithstanding anything to the contrary set forth in this Declaration, however, the Declarant, for itself and its licensees, agents, invitees, successors and assigns, hereby specifically reserves unto itself an easement upon and the right, privilege and license of using any or all of the Common Area, including, without limitation, any and common streets, parking lots, sidewalks and walkways on the Property, in connection with and in support of golf and country club operations and activities and any amateur or professional golf or tennis tournaments on the Golf and Country Club Property, including specifically, without limitation, the right, privilege, license and easement to limit, control, restrict or permit, by ticket, pass or otherwise, ingress or egress to and from the Golf and Country Club Property by, through, over and upon any and all of the Common Area; provided, however, that the exercise of such right, privilege, license and easement by the Declarant and its licensees, agents, invitees, successors and assigns shall not prohibit or unreasonably interfere with or restrict the right, privilege, license and easement of an Owner and the members of his or her family, his or her employees, guests and other invitees to have ingress and egress to and from his or her residence as elsewhere provided in this Declaration. Notwithstanding anything to the contrary set forth in this Declaration, the Golf and Country Club Property shall not be liable for Assessments of the Association (except for the share of the Master Association assessment allocable to said property) and the Owner and/or operator of the Golf and Country Club Property may locate and erect thereon from time to time buildings, structures, landscaping and other improvements without the requirement of approval by the Association or the Architectural Review Board. Nothing contained in this Declaration is intended or shall make the Owner and/or operator of the Golf and Country Club Property a Member of the Association or grant any rights of Membership to said Owner and/or operator. Nothing contained in this Declaration is intended to or shall make the Golf and Country Club Property subject to the ownership, operation or control of the Association.

2.7 Owner's Interest Subject to Plan of Development. Every purchaser of a Lot, Dwelling, Multi-Family Tract, Development Unit Parcel or Golf and Country Club Property shall purchase such property, and every Mortgagee and lienholder holding an interest therein shall take title, or hold such security interest with respect thereto, with notice of Declarant's development rights as to the Additional Property as herein set forth, and Declarant shall have and does hereby specifically reserve the right to add the Additional Property or any portion or portions thereof to the Development as hereinabove provided, and, with respect to each Lot, Dwelling, Multi-Family Tract, Development Unit Parcel and Golf and Country Club Property located within the Additional Property, to convey to the purchaser thereof the title thereto and its appurtenant membership and voting rights in the Association (if any). Any provision of this Declaration to the contrary

notwithstanding, the provisions of the foregoing may not be abrogated, modified, rescinded, supplemented, or amended in whole or in part without the prior written consent of Declarant.

ARTICLE 3. CONSTRUCTION OF A DWELLING.

3.1 Selection of Builder/Contractor. In order to assure that all construction undertaken within the Marsh Crossing subdivision is of the highest quality, and in order to assure that those builders and contractors which engage in construction activities within the Marsh Crossing subdivision are cooperative and comparable with the uniform, high quality marketing and sales program conducted by Declarant, the construction of any and all improvements on a Lot, including a Dwelling, must be undertaken only by, through and with builders who are in the participating builder program affecting the Marsh Crossing subdivision, if any, then in effect (the "Participating Builders"). A list of the Participating Builders shall be available at the main office of Declarant, which address is set forth in provision 13.16 herein. If Declarant does not have a Participating Builders program in effect at the time Owner is ready to commence construction of Owner's Dwelling, or, at any time after the acquisition of a Lot by Owner, any builder, contractor or subcontractor utilized by Owner shall be approved in writing by Declarant prior to the commencement of any construction, as being acceptable to Declarant to perform construction work within the Marsh Crossing subdivision, subject to the standard rules and regulations for the Marsh Crossing subdivision, then in effect. Declarant's approval of a builder or Participating Builders as set forth herein shall not be construed as a warranty or guaranty by Declarant of such builder and its product.

3.2 Commencement of Construction. The construction of a Dwelling on a Lot within the Marsh Crossing subdivision must commence within five (5) years from the date of closing of the initial acquisition of the Lot from Declarant.

3.3 Enforcement. Declarant may enforce the terms contained in this Article through injunctive relief or any other remedy available at law or in equity.

ARTICLE 4. ARCHITECTURAL STANDARDS AND USE RESTRICTIONS

4.1 Purpose. In order to preserve the natural setting and beauty of the Development, to establish and preserve a harmonious and aesthetically pleasing design for the Development, and to protect and promote the value of the Development, the Lots, Dwellings, Neighborhood Areas, Multi-Family Tracts and Development Unit Parcels, and the Golf and Country Club Property, all improvements within the Development shall be subject to the restrictions set forth in this Article 4. Every grantee of any interest in the Development, by acceptance of a deed or other conveyance of such interest, agrees to be bound by the provisions of this Article 4; provided, however, that the Golf and Country Club Property and any landscaping or other improvements erected or located thereon from time to time shall not be subject to the review or approval of the Architectural Review Board.

4.2 Architectural Review Board. The Declarant shall establish an Architectural Review Board which shall consist of not more than five (5) nor less than three (3) members. The regular term of office for each member shall be one year. Any member appointed by the Declarant may be removed with or without cause by the Declarant at any time by written notice to such appointee, and a successor or successors appointed to fill such vacancy shall serve the remainder of the term of the former member. Notwithstanding the foregoing to the contrary, any member appointed to the Architectural Review Board by the Board of

Directors upon assignment to the Association of the whole or any portion of Architectural Review Board functions pursuant to Section 4.2.1 below shall be subject to the prior approval of Declarant until that date which is three (3) years from and after the date on which Declarant's right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association pursuant to Sections 10.1 and 13.1 is terminated. The Architectural Review Board shall elect a chairman who (or in said chairman's absence, the vice chairman) shall be the presiding officer at its meetings. The Architectural Review Board shall meet at least once in each calendar month so long as there is business to transact, as well as upon call of the chairman, and all meetings shall be held at such places as may be designated by the chairman. Three (3) members shall constitute a quorum for the transaction of business, and the affirmative vote of a majority of those present in person or by proxy at a meeting of the Architectural Review Board shall constitute the action of the Architectural Review Board on any matter before it. The Architectural Review Board is authorized to retain the services of consulting architects, landscape architects, urban designers, engineers, inspectors, and/or attorneys in order to advise and assist the Architectural Review Board in performing its functions set forth herein.

4.2.1 Right to Assign Architectural Review Board Functions to the Association. The Declarant reserves the right to assign to the Association, at its sole discretion, the whole or any portion of its rights reserved in this Declaration which are exercisable by the Architectural Review Board. The Association hereby agrees to accept the assignment of these rights without the necessity of any further action by it. Upon such assignment, the Board of Directors shall appoint the members of the Architectural Review Board, subject, however, to Declarant's right of approval of any member as provided in Section 4.2 above.

4.3 Permitted Improvements. No improvements of any nature shall be constructed, altered, added to, or maintained upon any part of the Development, except (a) improvements which are constructed by Declarant, (b) such improvements as are approved by the Architectural Review Board in accordance with this Article 4, or (c) improvements which pursuant to this Article 4 do not require the consent of the Architectural Review Board. Moreover, without limiting the foregoing, no improvements of any nature shall be constructed, altered, added to, or maintained upon any part of the Development, except as are in compliance with the Concept Plan approved pursuant to the terms and conditions of the PCCSC Declaration or as otherwise approved in writing by the declarant under said PCCSC Declaration.

4.4 Construction of Improvements.

4.4.1 Siting of Improvements: Setbacks. Since the establishment of standard, inflexible building setback lines for the location of structures tend to force construction of such buildings both directly behind and directly to the side of each other with detrimental effects on privacy views, preservation of important trees, etc., no specific setback lines are established by this Declaration, except as otherwise provided in this Declaration or as may be required by the establishment of easements within the Property. In order to assure, however, that location of structures will be staggered where practical and appropriate so that the maximum amount of view and breeze will be available thereto, that the structures will be located with regard to ecological constraints and topography, taking into consideration the elevations, the location of large trees and similar considerations, the Declarant, through the Architectural Review Board, reserves unto itself, its successors and assigns, the right to control absolutely and solely to decide the precise site and location of any building or other structure upon all properties within the Development; provided, however, that such location shall be determined only after reasonable opportunity is afforded the Owner to recommend a specific site, and provided further, that in the event an agreed location is stipulated in writing by Declarant, the Architectural Review Board shall approve automatically such location. Anything contained herein to the contrary

notwithstanding, in the event Declarant creates any setback lines elsewhere in this Declaration, in any Supplemental Declaration, or other writing signed by Declarant, or in the Development Order or other document or plan approved by applicable governmental authorities, then, in that event, all buildings, structures, or other improvements on or with respect to any Lot, Dwelling, Neighborhood Area or Multi-Family Tract covered thereby shall be located only within the setback lines so specified, provided that the Architectural Review Board shall be empowered to grant variances with respect to such setback lines if so permitted in any such provision of this Declaration, Supplemental Declaration, or other writing of Declarant; and provided further, however, the Supplemental Declaration, other writing of the Declarant, or the Architectural Review Board may establish more, but not less, restrictive setbacks than may be required by the Development Order or any governmental law, ordinance, rule or regulation applicable to the Development. Without limiting the foregoing, no improvements, including any landscaping, shall be erected, installed or maintained on any Lot within any golf course setback line as set forth herein or otherwise established by Declarant, except for such improvements or landscaping as approved in writing by the Architectural Review Board as provided hereinbelow.

4.4.2 Time of Construction Activities. No construction of improvements on any Lots, Dwellings, Neighborhood Areas, Multi-Family Tracts or Development Unit Parcels shall be undertaken or conducted on any Sundays or holidays, except for (a) construction activities of Declarant, (b) emergency situations involving the potential loss, injury, or damage to persons or property, and (c) as otherwise permitted by the Architectural Review Board.

4.4.3 Contractor Bonds and Deposit: Construction Completion. The Architectural Review Board, in its sole discretion, may require that any contractor and/or subcontractor for any planned improvements within the Development post payment and/or performance bonds with the Architectural Review Board to assure that such contractor or subcontractor shall satisfactorily complete such improvements, such bonds to be in the name of the Architectural Review Board and to be in form and amount satisfactory to the Architectural Review Board; provided, however, that any contractor and/or subcontractor retained by Declarant to construct improvements within the Development shall not be subject to the foregoing requirements. Furthermore, the Architectural Review Board, in its sole discretion, may require that an Owner deposit with the Architectural Review Board a sum of no more than Two Thousand Five Hundred and No/100 Dollars (\$2,500.00) in order to assure the completion of all improvements, including landscaping, within the time periods provided in this Section 4.4 and in Section 4.6 hereof, and to pay or defray the cost of any unrepaired damage done to Common Areas, including roadways, as a result of said work. The exterior of any improvement permitted by this Declaration shall be completed within one (1) year after the construction of same shall have been commenced, except where the Architectural Review Board allows for an extension of time because such completion within such time is impossible or would result in great hardship to the Owner or builder thereof due to strikes, national emergencies, fires, floods, lightning, earthquakes, or other casualties. In the event that such improvements or landscaping are not completed within the provided periods, the Architectural Review Board shall be entitled to collect on or enforce any payment or performance bonds required hereunder so as to ensure the proper completion of any such improvements. Furthermore, the Architectural Review Board shall be entitled to retain any sums so deposited as a penalty for such failure to complete or repair, and such sums shall be retained as the property of the Association. Any such sums so deposited shall, at the discretion of the Architectural Review Board, be invested so as to earn interest, and any interest earned thereon shall be the sole property of the Association. The retention of any of the deposit by the Architectural Review Board shall not excuse the Owner of responsibility to complete the construction and landscaping, at Owner's cost, in accordance with the plans and specifications approved by the Architectural

Review Board, or to pay the cost of any required repair to Common Areas as further set forth in Section 7.2.2 hereof.

4.4.4 Temporary Structures. No structure of a temporary character shall be placed upon any property subject to this Declaration at any time, provided, however, that this prohibition shall not apply to (i) Declarant's sales and construction activities pursuant to Section 4.19, (ii) shelters or temporary structures used by the contractor during construction of permanent structures (provided such temporary shelters may not, at any time, be used as residences or permitted to remain on the subject property after completion of construction), or (iii) any shelters, tents, pavilions or other temporary shelters which may from time to time be erected on the Golf and Country Club Property in connection with tournaments and other social or special events. The design and color of structures temporarily placed by contractor shall be subject to reasonable aesthetic control by the Architectural Review Board. The provisions of this Section 4.4.4 shall not prohibit the erection of temporary structures for social functions as may be permitted by rules and regulations promulgated by the Architectural Review Board

4.4.5 Construction Debris. During the continuance of construction by an Owner, such Owner shall require its contractors to maintain the property upon which such work is being done in a reasonably clean and uncluttered condition and, to the extent possible, all construction trash and debris shall be kept within refuse containers. Upon completion of construction, such Owner shall cause its contractors to immediately remove all equipment, tools, and construction material and debris from the property on which such construction has been completed.

4.4.6 Occupancy. Dwellings may not be temporarily or permanently occupied until the construction of the Dwelling has been completed and a certificate of occupancy has been issued by both the Architectural Review Board and by any governmental entity with jurisdiction thereof.

4.5 Architectural Approval. To preserve the architectural and aesthetic appearance of the Development, no construction of improvements of any nature whatsoever shall be commenced or maintained by the Association or any Owner, other than Declarant, with respect to the construction or exterior of any improvement, structure, Dwelling or with respect to any other portion of the Development, including, without limitation, the construction or installation of sidewalks, driveways, parking lots, mail boxes, decks, patios, courtyards, greenhouses, awnings, walls, fences, exterior lights, garages, guest or servants' quarters, or other outbuildings, screened enclosures, television or radio antennae, satellite receiving dishes and equipment, swimming pools, tennis courts, playhouses, swing sets, basketball courts, standards and/or backboards or any other recreational devices or equipment, nor shall any exterior addition to or change or alteration therein be made (including, without limitation, painting or staining of any exterior surface), unless and until two (2) copies of the plans and specifications and related data (including, if required by the Architectural Review Board, a survey showing the location of trees of six (6) inches in diameter at a height of four and one-half (42) feet above the ground level and other significant vegetation on such property) showing the nature, color, type, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to the harmony of external design, location, and appearance in relation to surrounding structures and topography by the Architectural Review Board. One copy of such plans, specifications, and related data so submitted shall be retained in the records of the Architectural Review Board, and the other copy shall be returned to the Owner marked "approved" or "disapproved". The Architectural Review Board shall establish a fee sufficient to cover the expense of reviewing plans and related data and to compensate any consulting architects, landscape architects, urban designers, inspectors, or attorneys retained in accordance with the terms hereof. The fee initially established for such review shall be Two Hundred Fifty and No/100 Dollars (\$250.00) for

each submission, and the Architectural Review Board shall have the right to increase this amount from time to time. For purposes of such review, if the Architectural Review Board determines, in its sole discretion, that an Owner has failed to follow the standards of the Board, it may give notice to the Owner that if the Board is required to take up any additional time following its review to take place after such notice, then such later additional time shall be deemed a new submission requiring payment of another review fee as a condition to its taking such additional time. The Architectural Review Board shall not be limited in the number of such notices it may give or the number of such additional review fees it may collect as a result of Owner's continued failure to follow the standards. Notwithstanding the foregoing requirement of architectural review, an Owner of any enclosed Dwelling or other building or structure may make interior improvements and alterations therein without the necessity of approval or review by the Architectural Review Board; provided, however, such approval shall be required if such interior improvements are made within any garage, underneath parking area or similar area plainly within view of adjacent properties. The Architectural Review Board shall have the sole discretion to determine whether plans and specifications submitted for approval are acceptable to the Association. In connection with approval rights and to prevent excessive drainage or surface water run-off the Architectural Review Board shall have the right to establish a maximum percentage of a property which may be covered by Dwellings, buildings, structures, or other improvements, which standards shall be promulgated on the basis of topography, percolation rate of the soil, soil types and conditions, vegetation cover, and other environmental factors. Following approval of any plans and specifications by the Architectural Review Board, representatives of the Architectural Review Board shall have the right during reasonable hours to enter upon and inspect any property or improvements with respect to which construction is underway within the Development to determine whether or not the plans and specifications thereof have been approved and are being complied with. In the event the Architectural Review Board shall determine that such plans and specifications have not been approved or are not being complied with, the Architectural Review Board shall be entitled to enjoin further construction and to require the removal or correction of any work in place which does not comply with approved plans and specifications. In the event the Architectural Review Board fails to approve or disapprove in writing any proposed plans and specifications within forty-five (45) days after such plans and specifications shall have been submitted, such plans and specifications will be deemed to have been expressly disapproved. Upon approval of plans and specifications, no further approval under this Article 4 shall be required with respect thereto, unless such construction has not substantially commenced within six (6) months of the approval of such plans and specifications (e.g. clearing and grading, pouring of footings, etc.) or unless such plans and specifications are materially altered or changed. Refusal of approval of plans and specifications may be based by the Architectural Review Board upon any ground which is consistent with the objects and purposes of this Declaration, including purely aesthetic considerations.

4.6 Landscaping Approval. To preserve the aesthetic appearance of the Development, no landscaping, grading, excavation, or filling of any nature whatsoever shall be implemented and installed by the Association or any Owner, other than Declarant, unless and until the plans therefor have been submitted to and approved in writing by the Architectural Review Board. The provisions of Section 4.5 regarding time for approval of plans, right to inspect, right to enjoin and/or require removal, etc. shall also be applicable to any proposed landscaping, clearing, grading, excavation, or filling. Such plans shall include a calculation of the ratio of the area to be covered by grass lawns versus the area to be left in a natural state, and the Architectural Review Board shall be entitled to promulgate standards with respect to such ratios. Furthermore, without the consent of the Architectural Review Board, no hedge or shrubbery planting which obstructs sight-lines at elevations between two (2) and six (6) feet above streets and roadways within the Development shall be placed or permitted to remain on any property within the triangular area formed by the street property lines and a line connecting such lines at points fifteen (15) feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the extended street property lines. The same sight-line

limitations shall apply to any property subject to this Declaration within ten (10) feet from the intersection of a street property line with the edge of a driveway. No trees shall be permitted to remain within such distances of such intersections unless the tillage line is maintained at sufficient height to prevent obstruction of such sight-lines or unless otherwise consented to by the Architectural Review Board. Unless located within ten (10) feet of a building or a recreational or parking facility, no Owner, other than Declarant, shall be entitled to cut, remove, or mutilate any trees, shrubs, bushes, or other vegetation having a trunk diameter of six (6) inches or more at a point of four and one-half (4 1/2) feet above the ground level, or other significant vegetation as designated, from time to time, by the Architectural Review Board, without obtaining the prior approval of the Architectural Review Board, provided that dead or diseased trees which are inspected and certified as dead or diseased by the Architectural Review Board or its representatives, as well as other dead or diseased shrubs, bushes, or other vegetation, shall be cut and removed promptly from any property by the Owner thereof. All of the landscaping within a Lot must be completed within ninety (90) days of occupancy or substantial completion of the Dwelling, whichever date shall first occur. All landscaping within Common Areas, Neighborhood Areas or Multi-Family Tracts must be completed within ninety (90) days of occupancy or substantial completion of the first Dwelling within such Neighborhood Area or Multi-Family Tract, or first structure within a Common Area, whichever date shall first occur. No landscaping on any Lot shall be installed or maintained within any golf course setback line established by Declarant except with the prior written approval of the Architectural Review Board.

4.6.1 Applicable Tree Ordinances. Anything contained herein to the contrary notwithstanding, the limitations herein provided are in addition to, and not substitutions for, the ordinances, rules, regulations, and conditions of any political subdivision or governmental entity of the State of Florida with jurisdiction over the cutting and removal of trees.

4.6.2 Natural Vegetative Buffer. The Plat reflects a fifteen (15') foot wide Natural Vegetative Buffer ("Natural Vegetative Buffer") located along the rear Lot line of each Lot which abuts the adjoining Golf and Country Club Property. Notwithstanding anything contained herein to the contrary, no Lot Owner shall be allowed to remove, clear, prune or otherwise disturb any of the natural vegetation located within the Natural Vegetative Buffer on his Lot without the prior written consent of the owner of the Golf and Country Club Property; provided, however, that a Lot Owner may remove, clear or prune the underbrush, palmetto bushes and any dead, dying or diseased vegetation which may be located in the Natural Vegetative Buffer on his Lot. The owner of the Golf and Country Club Property and the Declarant shall each have the right to enforce the foregoing restrictions by way of suit for injunctive relief or other appropriate action, including without limitation, the right to seek an order requiring the Lot Owner to re-vegetate the area disturbed to the condition which existed prior to a Lot Owner's disturbance of the Natural Vegetative Buffer.

4.7 Approval Not a Guarantee; Exculpation for Approval or Disapproval. No approval of plans and specifications and no publication of architectural standards shall be construed as representing or implying that such plans, specifications, or standards will, if followed, result in properly designed improvements. Such approvals and standards shall in no event be construed as representing or guaranteeing that any Dwelling or other improvement built in accordance therewith will be built in a good and workmanlike manner. Declarant, the Association and the Architectural Review Board, and all officers, directors, employees, agents and members thereof, shall not, either jointly or severally, be responsible or liable for any defects in any plans or specifications submitted, revised, or approved pursuant to the terms of this Article 4, nor any defects in construction undertaken pursuant to such plans and specifications. Declarant, the Association and the Architectural Review Board, and all officers, directors, employees, agents and members thereof, shall not, either jointly or severally, be liable in damages or otherwise to any Owner or other person or party

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whomsoever or whatsoever by reason or on account of any decision, approval or disapproval of any plans, specifications or materials required to be submitted for review and approval pursuant to the provisions of this Article 4. Furthermore, the approval of any such plans, specifications or other materials submitted for review and approval by the Architectural Review Board shall not constitute a representation of compliance with any governmental laws, ordinances, codes, rules, regulations or requirements, and by the approval of any such plans, specifications or materials, neither the Declarant, the Architectural Review Board, the Association, nor any individual member, officer, director, employee or agent of any of them, shall have, assume or incur any liability or responsibility whatsoever for any violation of such governmental laws, ordinances, codes, rules, regulations or requirements.

4.8 Building Restrictions. Except as may be otherwise set forth in this Declaration, in any Supplemental Declaration, in any agreement with Declarant, or by specific deed restriction, the following building restrictions shall apply with respect to the properties subject to this Declaration:

4.8.1 Number of Buildings on Lots. No structure shall be constructed on a Lot other than one (1) detached single-family Dwelling and such appurtenant improvements as may be approved by the Architectural Review Board.

4.8.2 Square Footage Requirements. All Dwellings constructed on Lots shall have a minimum of one thousand three hundred (1,300) square feet of Living Space. Declarant reserves the right to modify, amend or change the within square footage requirement as it may apply to any Lot or Dwelling within the Additional Property and upon the filing of a Supplemental Declaration in the Public Records of Flagler County, Florida; provided, however, upon the failure of Declarant to make specific provision for a minimum square footage of Living Space in any such Supplemental Declaration, the foregoing restriction shall apply to any Dwelling constructed upon a Lot within such Additional Property. There shall be no minimum square footage requirements with respect to a Dwelling or other structure constructed within a Multi-Family Tract or the Golf and Country Club Property except as may be specifically provided in a Supplemental Declaration filed in the Public Records of Flagler County, Florida, with respect thereto.

4.8.3 Other Requirement of Residences. In addition, all residential structures constructed on a Lot shall be designed and constructed in compliance with all applicable laws, ordinances, codes, regulations and requirements of governmental authorities with jurisdiction over the Development, including, without limitation, all applicable zoning, building codes, health and fire-safety codes and all requirements related to construction in flood hazard areas.

4.9 Use of Lots and Dwellings. Except as permitted by Section 4.19, each Lot and Dwelling shall be used for residential purposes only, and no trade or business of any kind may be carried on therein. The use of a portion of a Dwelling as an office by an Owner or his Tenant shall not be considered to be a violation of this covenant if such use does not create regular customer, client or employee traffic; provided, however, that in no event shall any Lot or Dwelling be used as the office of or storage area for any building contractor, real estate developer or real estate broker, except as may be on a temporary basis, with the express written consent of the Architectural Review Board, and in accordance with reasonable rules and regulations promulgated by the Architectural Review Board. Furthermore, the operation of the Recreational Amenities and any Golf and Country Club Property, including, without limitation, the charging and collecting of rentals, fees and charges in connection therewith, shall be expressly permitted within the Development and shall not be deemed to be a violation of the terms of this Section 4.9. Lease or rental of a Dwelling for residential purposes shall also not be considered to be a violation of this covenant so long as the lease (a) is for not less than the

entire Dwelling and all the improvements thereon, and (b) is otherwise in compliance with rules and regulations as may be promulgated and published from time to time by the Declarant and the Architectural Review Board. All such leases or rental agreements shall be required to be in writing, and upon request, the Owner shall provide the Declarant and Architectural Review Board with copies of such lease or rental agreement. Any renter, lessee or Tenant shall in all respects be subject to the terms and conditions of this Declaration and the rules and regulations adopted hereunder.

4.10 Exterior Appearance. No chain-link fences shall be permitted within the Development, except with regard to maintenance areas within the Common Areas. Also, any unenclosed garages or carports must be adequately screened from street views. Further, no foil or other reflective materials shall be used on any windows for sunscreens, blinds, shades, or other purpose, except as specifically permitted by the Architectural Review Board, nor shall any window-mounted heating or air-conditioning units be permitted. Garbage receptacles, fuel tanks, gas and electric meters, supplies, and equipment which are stored outside and outside clotheslines or other outside facilities for drying or airing clothes shall be erected and maintained only within the rear yard of any Dwelling service and placed in order to conceal same from view from roads and adjacent properties by a visual barrier at least six (6) feet high and may consist of either fencing or landscaping and planting which is approved by the Architectural Review Board in accordance with the architectural standards adopted therefor, and at a height no higher than such visual barrier. No clothing, rugs, or other item may be hung on any railing, fence, hedge, or wall.

4.11 Signs. Except as may be required by legal proceedings, no signs or advertising posters of any kind, including "For Rent," "For Sale," and other similar signs erected by Owners, the Association, or any agent, broker, contractor or subcontractor thereof, shall be maintained or permitted within any windows or on the exterior of any improvements or on any unimproved portion of property located within the Development, without the express written permission of the Architectural Review Board. The approval of any signs and posters, including, without limitation, name and address signs, shall be upon such conditions as may be from time to time determined by the Architectural Review Board and may be arbitrarily withheld. Notwithstanding the foregoing, the restrictions of this Section 4.11 shall not apply to Declarant. In addition, the Board of Directors, on behalf of the Association, shall have the right to erect reasonable and appropriate signs on any portion of the Common Areas and within those easement areas established in Section 5.8 hereof and in accordance with architectural standards adopted therefor by the Architectural Review Board.

4.12 Lights. The design and location of all exterior lighting fixtures shall be subject to the approval of the Architectural Review Board. Neither those lighting fixtures nor any other illumination devices, including, but not limited to, Christmas lighting displays and ornaments, located anywhere on the structures or grounds of any property shall be located, directed, or of such intensity to affect adversely, in the sole discretion of the Architectural Review Board, the night-time environment of any adjoining property.

4.13 Antennas: Satellite Dishes. No television antenna, radio receiver, satellite receiving dish having a diameter in excess of twenty (20) inches or other similar device shall be erected, attached to or installed on any portion of the Development, unless contained entirely within the interior of a building or other structure or screened from view in accordance with architectural standards adopted therefor by the Architectural Review Board, nor shall radio or television signals, nor any other form of electromagnetic radiation, be permitted to originate from any property within the Development which may unreasonably interfere with the reception of television or radio signals within the Development; provided, however, that Declarant and the Association, and their assigns, shall not be prohibited from installing equipment necessary.

for mast antenna, security, cable television, satellite receiving facilities, mobile radio, or other similar systems within the Development.

4.14 Security Systems. In the event that either Declarant or the Association shall install a central security system within the Development, or in the event Declarant grants to a third-party supplier the right to install same, with the capability of providing security services to each Dwelling within the Development, then no Owner shall be entitled to install or maintain any alternative security systems within a Dwelling other than security systems which are appurtenant to and connected with such central security system, without obtaining the prior written consent and approval of the Declarant, so long as Declarant has the right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association pursuant to Sections 10.1 and 13.1, and thereafter the Board of Directors.

4.15 Water Wells and Septic Tanks. Subject to the terms of Section 5.15, no private water wells or septic tanks may be drilled, installed or maintained on any of the Development. Shallow well pumps may be authorized by the Architectural Review Board for lawn and garden use if tests indicate water is satisfactory.

4.16 Pets. No animals, livestock, birds, poultry or reptiles of any kind shall be raised, bred, or kept by any Owner upon any portion of the Development except for a reasonable number of dogs, cats, birds or other usual and customary household pets kept in Dwellings, subject to rules and regulations adopted by the Association, through its Board of Directors, and further provided that such pet or pets are kept or maintained solely as domestic pets and not for any commercial purpose. For purposes hereof, numbers in excess of two (2) of each such type of household pet (other than aquarium-kept tropical fish) shall *prima facie* be considered unreasonable. No pet shall be allowed to make an unreasonable amount of noise or to become a nuisance. No structure for the care, housing, or confinement of any pet shall be constructed or maintained on any part of the Common Areas, and the Owner of such pet shall immediately remove the same. Upon the written request of any Owner, the Board of Directors may conclusively determine, in its sole and absolute discretion, whether, for purposes of this Section 4.16, a particular pet is a usual and customary household pet or such pet is a nuisance, and the Board shall have the right to require the owner of a particular pet to remove such pet from the Development if such pet is found to be a nuisance or to be in violation of these restrictions. The Board of Directors shall have the further right, subject to Section 12.2, to fine any Owner (in an amount not to exceed Fifty and No/100 Dollars (\$50.00) per violation) for the violation of these pet restrictions by such Owner or an Occupant of his Dwelling, and an Owner shall be liable to the Association for the cost of repair of any damage to the Common Areas caused by the pet of such Owner or of an occupant of such Owner's Dwelling. Any such fine or cost of repair shall be added to and become a part of that portion of any Assessment next coming due to which such Dwelling and its Owner are subject.

4.17 Nuisances. No rubbish or debris of any kind shall be dumped placed, or permitted to accumulate upon any portion of the Development, nor shall any nuisance or odors be permitted to exist or operate upon or arise from the Development, so as to render any portion thereof unsanitary, unsightly, offensive, or detrimental to persons using or occupying any other portions of the Development. Noxious or offensive activities shall not be carried on in any part of the Development, and the Association and each Owner, his family, Tenants, guests, invitees, servants, and agents shall refrain from any act or use which could cause disorderly, unsightly, or unkempt conditions, or which could cause embarrassment, discomfort, annoyance, or nuisance to the occupants of other portions of the Development or which could result in a cancellation of any insurance for any portion of the Development, or which would be in violation of any law or governmental code or regulation. Without limiting the generality of the foregoing provisions, no exterior

speakers, horns, whistles, bells, or other sound devices, except security and fire alarm devices used exclusively for such purposes, shall be located, used, or placed within the Development, or except as may be permitted pursuant to terms, conditions, rules and regulations adopted therefor by the Architectural Review Board. Any Owner, or his family, Tenants, guests, invitees, servants, or agents, who dumps or places any trash or debris upon any portion of the Development shall be liable to the Association for the actual costs of removal thereof or the sum of Twenty-Five and No/100 Dollars (\$25.00), whichever is greater, and such sum shall be added to and become a part of that portion of any Assessment next becoming due to which such Owner and his property are subject.

4.18 Motor Vehicles, Trailers, Boats, Etc. Each Owner shall provide for parking of automobiles off street and roads within the Development. There shall be no outside storage or parking upon any portion of the Development of any mobile home, trailer (either with or without wheels), motor home, tractor, truck (other than personal-use pick-up trucks and sport-utility vehicles), commercial vehicles of any type (including, without limitation, cars or trucks with advertising signs or lettering), camper, motorized camper or trailer, boat or other watercraft, boat trailer, motorcycle, motorized bicycle, motorized go-cart, or any other related forms of transportation devices, except if adequately screened from view or otherwise permitted in writing by the Declarant if permission is sought prior to the Turnover Date or by the Association if permission is sought after the Turnover Date. Furthermore, although not expressly prohibited hereby, the Architectural Review Board may at any time prohibit mobile homes, motor homes, campers, trailers of any kind, or any of them, from being kept, placed, stored, maintained, or operated upon any portion of the Development if in the opinion of the Architectural Review Board such prohibition shall be in the best interests of the Development. No Owners or other Occupants of any portion of the Development shall repair or restore any vehicle of any kind upon or within a property subject to this Declaration except (a) within enclosed garages or workshops, or (b) for emergency repairs, and then only to the extent necessary to enable the movement thereof to a proper repair facility.

4.18.1 Golf Carts. No golf carts other than those from time to time generally in use in connection with the operations and activities conducted upon the Golf Course and Country Club Property, or operated by Declarant and/or the Association, shall be permitted to be used or stored on the Property or used on the Common Area or the Golf and Country Club Property unless first approved and licensed in writing by the Association. The Association, however, shall not be authorized to approve and license any golf cart for use on any of the Property unless it is (a) in proper mechanical condition and a good state of repair and appearance, (b) of the same type, make, model and color of the golf carts generally used or previously approved by the Owner or operator, from time to time, of the Golf and Country Club Property for use on the golf course situate on the Golf and Country Club Property and (c) licensed by the Owner and/or operator, from time to time, of the Golf and Country Club Property for use on such golf course. In no event shall the Association be permitted to approve and license any golf carts equipped with a radio, television, horn, buzzer or other sound equipment of any type or decorated in any manner not approved by the Owner or operator, from time to time, of the Golf and Country Club Property. The Association shall be entitled to establish and charge a uniform reasonable fee for its inspection, approval and licensing of golf carts. Such fee of the Association shall be separate and apart from, and in addition to, any title, trail or license fee charged by the Owner or operator, from time to time, of the Golf and Country Club Property in connection with the use of any golf cart on the golf course.

4.19 Activities of Declarant and Association. Notwithstanding any provision or restrictions contained in this Declaration to the contrary, it shall be expressly permissible for Declarant and the Association and their respective agents, employees, contractors, licensees, successors, and assigns to carry on

such activities as may be reasonably required, convenient, or incidental to the construction, completion, improvement, maintenance, repair, operation and sale of the whole or any portion of the Property and the Additional Property, including, without limitation, the installation and operation of sales and construction trailers and offices, signs and model Dwellings, provided that the location of any construction trailers of any assignees of Declarant's rights under this Section 4.19 shall be subject to Declarant's approval. The right of Declarant to maintain and carry on such facilities and activities shall include specifically the right to use Dwellings as model residences, and to use any Dwelling as an office for the sale of Lots and/or Dwellings and for related activities and such rights shall continue until Declarant has sold all of its Lots and Dwellings in the Property and the Additional Property.

4.20 Multiple Ownership. The Property subject to this Declaration, including any improvements thereon or to be built thereon, shall not be used for or subject to any type of vacation or time-sharing plan (pursuant to Chapter 721, Florida Statutes or otherwise) or any similar type of ownership without the prior written consent of the Declarant, for so long as Declarant has the right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association pursuant to Sections 10.1 and 13.1, and thereafter without the prior written consent of the Board of Directors. In the event consent is granted for any ownership under such a vacation or time-sharing plan, or similar type ownership, the Declarant or the Board of Directors, as the case may be, shall have the right to amend this Declaration in any respect to take into account the nature of such ownership, including, but not limited to, provision for access and use of any Recreational Amenities under Section 5.3, provision for Member voting under Section 6.2, and provision for Assessments under Article 11.

4.21 Fire Breaks. The Declarant reserves unto itself its successors and assigns a perpetual, alienable and releasable easement and right on and over and under any property to cut fire breaks and other activities which in the opinion of the Declarant are necessary or desirable to control fires on any property, or any improvements thereon. Entrance upon property pursuant to the provisions of this Section shall not be deemed a trespass.

4.22 Bridges. The Declarant expressly reserves to itself its agents or assigns, any other provisions in this Declaration notwithstanding, the right to build bridges, walkways or fixed spans across any or all natural or man-made lakes, canals, streams, creeks, lagoons or other waterways in the Development. Nothing in this Section shall be construed as placing an affirmative obligation on the Declarant to provide or construct any bridge, walkway or fixed span.

4.23 Owner's Resubdivision. No Common Area, Lot, Dwelling, Neighborhood Area, Multi-Family Tract or Development Unit Parcel shall be subdivided, or its boundary lines changed, nor shall application for same be made to any governmental entity with jurisdiction thereof, except with the prior written approval of the Declarant, so long as Declarant has the right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association pursuant to Sections 10.1 and 13.1, and thereafter except with the prior written approval of the Board of Directors. However, the Declarant reserves the right to so subdivide pursuant to Sections 2.1 and 5.6, and to take such other steps as are reasonably necessary to make such replatted property suitable and fit as a building site, including, but not limited to, the relocation of easements, walkways, rights-of-way, roads, bridges, parks and other facilities and/or Common Areas.

4.23.1 Consolidation of Lots. The provisions of Section 4.23 shall not prohibit the combining of two (2) or more contiguous Lots into one (1) larger Lot. Following the combining of two (2) or

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more Lots into one (1) larger Lot, only the exterior boundary lines of the resulting larger Lot shall be considered in the interpretation of this Declaration. Consolidation of Lots, as described herein, must be approved by the Declarant, so long as Declarant has the right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association pursuant to Sections 10.1 and 13.1, and thereafter by the Board of Directors, said approval to be granted in its sole discretion upon such terms and conditions as may be established by it from time to time, including specific provisions for the payment of Assessments.

4.24 Owner Recording Additional Restrictions on Property. No Owner may impose additional restrictive covenants on any lands within the Property beyond those contained in this Declaration without consent of the Declarant, so long as Declarant has the right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association pursuant to Sections 10.1 and 13.1, and thereafter without consent of the Board of Directors. The Declarant may impose additional restrictive covenants on property then owned by the Declarant without the consent of any other Owner or the Association.

4.25 Right to Approve Condominiums Associations. No condominium or property owners association established on the Property shall be effective until all legal documents associated therewith have been approved by Declarant. A reasonable charge for cost of legal review may be charged to such developer by the Declarant.

4.26 Exclusive Right to Sell. To further the purposes of this Declaration and promote the cohesiveness and values of the Development, for so long as Declarant owns any portion of the Property, Declarant reserves the right to designate from time to time an exclusive real estate broker (the "Broker") for sale of any Common Area, Lot, Dwelling, Neighborhood Area, Multi-Family Tract, Development Unit Parcel, of Golf and Country Club Property within the Development which is offered for sale by the Owner thereof, subject to the terms and conditions set forth in this Section 4.26. The Broker may be Declarant, or an affiliate of Declarant or an independent entity. In the event any Owner desires to sell its property and to use a real estate broker for such purpose, the Owner shall notify the Broker in writing at Broker's address which shall be available at the office of the Declarant. Upon receipt of said notice, Broker shall inform the Owner of the then prevailing real estate brokerage fee for its services (the "Commission"). Broker shall have one hundred eighty (180) days after receipt of such notice from Owner to effect a sale of said Owner's property. If a contract to purchase such property is entered into within the aforesaid 180-day period, whether through the efforts of the Broker, the Owner or otherwise, Broker shall have earned and receive the Commission upon the date of closing of the sale of the Owner's property. The Owner shall refer all inquiries regarding the Owner's property to the Broker. If no contract to purchase the Owner's property is entered into within the 180-day period, the Owner may employ any broker to sell said property. If the Owner shall sell its property through another broker without allowing Broker the 180-day opportunity to sell same, the Owner shall remain liable to pay the Commission to Broker. Nothing contained herein is intended to prohibit an Owner from selling its property without the aid of a real estate broker, and upon any such sale by an Owner without a broker the Owner shall not be required to pay the Commission to Broker. This Section 4.26 shall not apply to the sale of any property by the Declarant or any holder of any Institutional Mortgage who has acquired title to said property through foreclosure or deed in lieu foreclosure.

4.27 Trespass. Whenever the Declarant is permitted by these Covenants to correct, repair, clean, preserve, clear out or do any action on the property of any Owner, or on the easement areas adjacent thereto, entering the property and taking such action shall not be deemed a trespass.

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4.28 Assignment of Declarant's Rights to the Association. The Declarant reserves the right to assign to the Association, at its sole discretion, its rights reserved in this Declaration, including all rights set forth in this Article 4. The Association hereby agrees to accept any and all assignments of rights hereunder, and no further action shall be required by it.

4.29 Other Rights and Reservations. **THE OMISSION OF ANY RIGHT OR RESERVATION IN THIS ARTICLE SHALL NOT LIMIT ANY OTHER RIGHT OR RESERVATION BY THE DECLARANT WHICH IS EXPRESSLY STATED IN OR IMPLIED FROM ANY OTHER PROVISIONS IN THIS DECLARATION.**

ARTICLE 5. PROPERTY RIGHTS

5.1 General Rights of Owners. Each Lot, Dwelling, Neighborhood Area, Multi-Family Tract, Development Unit Parcel and Golf and Country Club Property shall for all purposes constitute real property which shall be owned in fee simple and which, subject to the provisions of this Declaration, may be conveyed, transferred, and encumbered the same as any other real property. Each Owner shall be entitled to the exclusive ownership and possession of his said property, subject to the provisions of this Declaration, including without limitation, the provisions of this Article 5. If any chutes, flues, ducts, conduits, wires, pipes, plumbing or any other apparatus or facilities for the furnishing of utilities or other services or for the provision of support to such a property lie partially within and partially outside of the designated boundaries thereof, any portions thereof which serve only such property shall be deemed to be a part of such property, and any portions thereof which serve more than one such property or any portion of the Common Areas shall be deemed to be a part of the Common Areas unless otherwise provided in any Neighborhood Declaration. The ownership of each property subject to this Declaration shall include, and there shall pass with each property as an appurtenance thereto, whether or not separately described, all of the right and interest in and to the Common Areas as established hereunder, and the limitations applicable, which shall include, but not be limited to, membership in the Association. Each Owner (except for any Owner of Golf and Country Club Property) shall automatically become a Member of the Association and shall remain a Member thereof until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically pass to his successor-in-title to his or its property, and upon such transfer, such former Owner shall simultaneously transfer and endorse to his successor-in-title any certificates or other evidences of his membership in the Association.

5.1.1 Membership. Use of Golf and Country Club Property. NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH IN OR WHICH MAY OTHERWISE BE IMPLIED FROM THIS DECLARATION, THE ARTICLES OF INCORPORATION, BY-LAWS OR RULES AND REGULATIONS OF THE ASSOCIATION, NEITHER MEMBERSHIP IN THE ASSOCIATION NOR OWNERSHIP OF ANY LOT, DWELLING, MULTI-FAMILY TRACT OR DEVELOPMENT UNIT PARCEL IN THE DEVELOPMENT SHALL GRANT OR CONVEY ANY INTEREST IN OR RIGHT TO USE ANY GOLF AND COUNTRY CLUB PROPERTY OR RELATED AMENITIES AND FACILITIES NOW EXISTING OR HEREAFTER CONSTRUCTED OR OPERATED BY DECLARANT OR ANY OTHER PARTY. MEMBERSHIP OR USE OF ANY SUCH GOLF AND COUNTRY CLUB PROPERTY SHALL BE DETERMINED IN THE SOLE AND ABSOLUTE DISCRETION OF OWNER AND/OR OPERATOR OF SUCH GOLF AND COUNTRY CLUB PROPERTY, SUBJECT TO THE TERMS, CONDITIONS AND RULES ENACTED FROM TIME TO TIME BY THE OWNER AND/OR OPERATOR THEREOF, SUBJECT TO ANY FEES AND CHARGES IMPOSED FROM TIME TO TIME

BY SUCH OWNER OR OPERATOR, AND SUBJECT TO AVAILABILITY. OWNERSHIP OF ANY LOT, DWELLING, MULTI-FAMILY TRACT OR DEVELOPMENT UNIT PARCEL, OR MEMBERSHIP IN THE ASSOCIATION, DOES NOT CREATE, GRANT OR CONVEY ANY VESTED RIGHT OR EASEMENT, PRESCRIPTIVE OR OTHERWISE, TO USE OR TO CONTINUE TO USE ANY SUCH GOLF AND COUNTRY CLUB PROPERTY OR THE FACILITIES AT THIS OR ANY TIME, UNLESS APPROVED BY THE OWNER AND/OR OPERATOR AS SET FORTH ABOVE. THE OWNER AND/OR OPERATOR OF THE GOLF AND COUNTRY CLUB PROPERTY 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 THESE FACILITIES SHALL BE USED, INCLUDING (WITHOUT LIMITATION) MAKING THESE FACILITIES AVAILABLE FOR USE BY MEMBERS OF THE GENERAL PUBLIC. BY WAY OF EXAMPLE, BUT NOT LIMITATION, THE OWNER AND/OR OPERATOR OF THE GOLF AND COUNTRY CLUB PROPERTY SHALL HAVE THE RIGHT TO APPROVE USERS AND DETERMINE ELIGIBILITY FOR USE, TO RESERVE USE RIGHTS, TO TERMINATE ANY OR ALL USE RIGHTS, TO CHANGE, ELIMINATE OR CEASE OPERATION OF ANY OR ALL OF THE FACILITIES, TO TRANSFER ANY OR ALL OF THE GOLF AND COUNTRY CLUB PROPERTY OR THE OPERATION THEREOF TO ANYONE (INCLUDING WITHOUT LIMITATION A MEMBER-OWNED OR EQUITY CLUB) AND ON ANY TERMS, TO LIMIT THE AVAILABILITY OF USE PRIVILEGES, AND TO REQUIRE THE PAYMENT OF A PURCHASE PRICE, MEMBERSHIP CONTRIBUTION, INITIATION FEE, MEMBERSHIP DEPOSIT, DUES, USE CHARGES AND OTHER CHARGES FOR USE PRIVILEGES. EACH OWNER BY ACQUISITION OF TITLE TO A LOT HEREBY RELEASES AND DISCHARGES FOREVER THE DECLARANT, THE OWNER AND OPERATOR OF THE GOLF AND COUNTRY CLUB PROPERTY, AND THEIR DIRECTORS, OFFICERS, EMPLOYEES, AGENTS AND AFFILIATES, FROM ANY CLAIMS THAT THE ASSOCIATION IS ENTITLED TO OWN OR OPERATE THE GOLF AND COUNTRY CLUB PROPERTY, OR THAT ANY OWNERS ARE ENTITLED TO USE THE GOLF AND COUNTRY CLUB PROPERTY EXCEPT UPON PAYMENT OF SUCH FEES AND CHARGES AND COMPLIANCE WITH SUCH TERMS AND CONDITIONS AS MAY BE ESTABLISHED BY THE OWNER OF THE GOLF AND COUNTRY PROPERTY FROM TIME TO TIME.

5.2 Owner's Easement of Enjoyment. Subject to the provisions of this Declaration and the rules, regulations, fees, and charges from time to time established by the Board of Directors in accordance with the By-Laws and the terms hereof, every Owner, his family, Tenants, and guests shall have a non-exclusive right, privilege, and easement of use and enjoyment in and to the Common Areas, to the extent so entitled hereunder, such easement to be appurtenant to and to pass and run with title, subject to the rights, restrictions, reservations, covenants, easements and obligations reserved, granted or alienable in accordance with this Declaration, including, but not limited to:

5.2.1 Right Of Association To Borrow Money. The right of the Association to borrow money (a) for the purpose of improving the Development, or any portion thereof, (b) for acquiring additional Common Areas, (c) for constructing, repairing, maintaining or improving any facilities located or to be located within the Development, or (d) for providing the services authorized herein, and, subject to the provisions of Section 10.2, to give as security for the payment of any such loan a mortgage or other security instrument conveying all or any portion of the Common Areas; provided, however, that the lien and encumbrance of any such security instrument given by the Association shall be subject and subordinate to any and all rights, interest, options, licenses, easements, and privileges herein reserved or established for the benefit of Declarant, any Owner, or the holder of any Mortgage, irrespective of when such Mortgage is executed or given.

5.2.2 Declarant's Reserved Rights and Easements. The rights and easements specifically reserved to Declarant in this Declaration.

5.2.3 Association's Rights to Grant and Accept Easements. The right of the Association to grant and accept easements pursuant to Section 5.7 hereof and to dedicate or transfer fee simple title to all or any portion of the Common Areas to any public agency or authority, public service district, public or private utility, or other person, provided that any such transfer of the simple title must be approved by a majority of those present in person or by proxy at a duly held meeting of the Association and by Declarant, for so long as Declarant owns any of the Property primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Development.

5.2.4 Association's Rights and Easements. The rights and easements specifically reserved in this Declaration for the benefit of the Association, its directors, officers, agents, and employees.

5.2.5 Declarant's Easements for Additional Property. The rights and easements reserved in Section 5.10 hereof for the benefit of the Additional Property.

5.2.6 Golf and Recreation Easements. The rights and easements reserved in Section 5.11 hereinbelow for the benefit of the Golf and Country Club Property.

5.2.7 Declarant's Rights to Dedicate. The right of the Declarant to dedicate, convey or otherwise transfer portions of the Property and certain roads and common facilities in the Development to any public entity pursuant to Section 5.4.2 or Section 7.4 hereinbelow.

5.3 Recreational Amenities.

5.3.1 Access and Use of Recreational Amenities. Subject to the terms and provisions of this Declaration and the rules, regulations, and Recreational Charges from time to time established by the Board of Directors, every Owner of a Lot or Dwelling and his family, Tenants, and guests shall have the non-exclusive right, privilege, and easement of access to and the use and enjoyment of the Recreational Amenities. Notwithstanding the foregoing to the contrary, those Owners of Lots or Dwellings, their spouses, and their Dependent Children, paying a Recreational Charge for exclusive use of an Association's use-for-fee facility or service shall have the exclusive use thereof, subject to the payment of Recreational Charges therefor which are from time to time established by the Board of Directors. Such Owners' guests, Tenants, and non-Dependent Children, as well as co-Owners who have not been designated pursuant to (b) below, shall have access to and use of the Recreational Amenities subject to rules, regulations, and Recreational Charges, as are from time to time established by the Board of Directors, provided that there shall be no distinction between such co-Owners, guests, Tenants, and non-Dependent Children with respect to Recreational Charges. Notwithstanding the foregoing to the contrary, the Board of Directors shall be entitled, but not obligated, to promulgate rules and regulations from time to time whereby grandchildren of Owners of Lots and Dwellings and non-Dependent Children of Owners of Lots and Dwellings have access to and the use of the Recreational Amenities on the same basis as Dependent Children of Owners of Lots and Dwellings. An Owner of a Lot or Dwelling may assign to the Tenant of his Lot or Dwelling such Owner's rights of access to and use of the Recreational Amenities so that such Tenant, his family and guests shall be entitled to the access to and use and enjoyment of the Recreational Amenities on the same basis as an Owner of a Lot or Dwelling and his family and guests, provided that any such designation may not be changed within six (6) months after such designation is so made. Any Owner of a Lot or Dwelling so assigning such rights to his Tenant shall give

written notice thereof to the Board of Directors in accordance with Section 13.1, and after such assignment and notice, such Owner and his family and guests shall thenceforth have access to and use of the Recreational Amenities on the same basis and for the same Recreational Charges as guests of an Owner of a Lot or Dwelling, until such assignment is terminated and the Board of Directors is given written notice of such termination by such Owner. Nothing herein shall be construed as requiring the Board of Directors to establish Recreational Charges for the use of Recreational Amenities, use of which may be, in the sole discretion of the Board of Directors, covered solely by the Annual Assessment under Section 11.3. Nothing contained herein shall be construed to create, grant or convey any interest in or right to use any Golf and Country Club Property or related amenities and facilities now existing or hereafter constructed or operated by Declarant or any other party.

5.3.2 Access and Use By Multiple Owners. The Board of Directors may, in its sole discretion, establish a rule that in the event of any multiple ownership of a Lot or Dwelling which is permitted by Section 4.20 hereof only the Owner of such Lot or Dwelling designated in writing to the Board of Directors by all co-Owners, as well as his spouse and Dependent Children, shall be entitled to the use of the Recreational Amenities without user fees as provided above. The remaining co-Owners of such Lot or Dwelling and their families and guests shall be entitled to access to and use of the Recreational Amenities in accordance with the rules, regulations, fees, and charges relating to Owner's guests, Tenants, and non-Dependent Children which are from time to time established by the Board of Directors. If no such designation is made by such co-Owners, then all such co-Owners shall have access to and use of the Recreational Amenities on the same basis and for the same fees and charges as Owner's guests, Tenants, and non-Dependent Children. Any designation made pursuant to this Section 5.3.2 shall not be permitted to be changed within six (6) months after such designation is so made, except in the event of a sale or other transfer of the Lot or Dwelling. For purposes of this Section 5.3.2, multiple ownership shall include ownership of a Lot or Dwelling by a partnership or a corporation, so that any such partnership or corporation shall designate to the Board one natural person who is a partner or stockholder and who, with his spouse and Dependent Children shall be entitled to access to and use of the Recreational Amenities on the same basis as Owners. In the absence of the establishment of any such rule of access and use by multiple Owners by the Board of Directors, all co-Owners shall have access to Recreational Amenities equal to that of all other Owners.

5.3.3 Declarant's Access and Use. In addition to the rights of Owners with respect to the access to and use and enjoyment of the Recreational Amenities and the rights therein of owners of residential dwellings within the Additional Property as provided in Section 5.10, Declarant reserves the right to from time to time designate individuals who shall have access to and use of the Recreational Amenities on a basis which is equal and equivalent to that which is enjoyed by Owners. Declarant shall designate such individuals by written notice to the Board of Directors in accordance with Section 13.15, and Declarant reserves the right to from time to time add and remove individuals to and from such designated list, provided that for so long as Declarant owns a Lot or Dwelling primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion hereof to the Development, there shall be no more than a total of fifty (50) individuals so designated by Declarant at any one time, and after such time as Declarant no longer owns a Lot or Dwelling primarily for the purpose of sale and no longer has the unexpired option to add the Additional Property or any portion thereof to the Development, the Declarant shall designate no more than a total of twenty-five (25) individuals at any one time. In addition, all such designated individuals shall either be officers, directors, or employees of Declarant or any of its affiliates, or real estate brokers and sales agents who are selling and/or listing Lots and Dwellings within the Development. Spouses and Dependent Children of such designated individuals shall have access to and use of the Recreational Amenities on an equal and equivalent basis as Owners' spouses and Dependent Children, and such designated individuals' guests and non-

Dependent Children shall have access to and use of the Recreational Amenities in accordance with such rules, regulations, fees, and charges as are from time to time established by the Board with respect to Owners' guests, Tenants, and non-Dependent Children.

5.3.4 Guests and Children Accompanied By Owner. All guests and children of Owners and of individuals designated by Declarant pursuant to this Section 5.3, as well as Tenants of Owners who are not assigned their respective Owners' rights pursuant to the provisions herein above provided, shall at all times when using the Recreational Amenities be accompanied by an Owner or their spouses or by individuals designated by Declarant in accordance herewith or their spouses, provided that a waiver of such requirement may be made at any time in accordance with rules and regulations promulgated by the Board of Directors.

5.3.5 Excepting Development Unit Parcels. Anything contained herein to the contrary notwithstanding, access to and use of the Recreational Amenities shall be available only to Owners of Lots and Dwellings, and to persons designated by Declarant, and their respective family, guests, and Tenants, as herein provided, and shall not be available to Owners of Development Unit Parcels.

5.4 Access, Ingress and Egress: Roadways. All Owners, by accepting title to property conveyed subject to this Declaration, waive all rights of uncontrolled and unlimited access, ingress, and egress to and from such property and acknowledge and agree that such access, ingress, and egress shall be limited to roads, sidewalks, walkways, trails, and waterways located within the Development from time to time, provided that pedestrian and vehicular access to and from all such property shall be provided at all times. There is reserved unto Declarant, the Association, and their respective successors and assigns the right and privilege, but not the obligation to maintain guarded or electronically-monitored gates controlling vehicular access to and from the Development.

5.4.1 Regulation of Traffic. In order to provide for safe and effective regulation of traffic, the Declarant reserves the right to promulgate from time to time additional parking and traffic regulations relating to conduct on, over and about any private streets and roadways which may be located in the Development, which regulations shall initially include, but shall not be limited to, those set out hereinafter. Declarant reserves the right to adopt additional regulations or to modify previously promulgated regulations from time to time and to make such adoption or modification effective thirty (30) days after mailing notice of same in accordance with Section 13.15 to the record Owners within the Development as of January 1 of the year in which such regulations are promulgated:

(a) No motorcycles or motorbikes may be operated on private roads and streets within the Development, if any. Mopeds (or other motor-powered bicycles) with no more than one-horse power may be operated so long as they abide by all other traffic regulations and so long as they are not required to be registered by the State of Florida.

(b) All vehicles traveling on the roads within the Development shall yield to golf carts at crossings where Golf Cart Path Easements intersect with said roads.

(c) The Declarant, or the Association after title to any private streets and roadways has passed to it from the Declarant, may post "no parking" signs along such private streets and roadways within the Development, if any, where it, in its sole discretion, determines it appropriate to do so. Violators of said "no parking" signs are subject to having their vehicles towed away and shall be required to pay the cost of such towing and storage before their vehicle may be recovered. The act of towing said vehicles

shall not be deemed a trespass or a violation of the Owners' property rights, because the Owner shall be deemed to have consented to such action by accepting the right to use the private roads and streets within the Development, if any.

5.4.2 Public Roadways Within Development. The Declarant reserves the right, but not the obligation, to dedicate or otherwise convey any portion of the roadways within the Development not otherwise denominated to be Common Areas to the State of Florida, any political subdivision thereof, any special taxing district or a community development district or other local unit of special government purpose established pursuant to Florida Statutes, for the purpose of granting public access thereto and over said roadways. The Declarant further reserves the right to impose upon the Association the requirement of maintaining any such dedicated roadway until such time as the roadway is brought up to standards acceptable to such public body and maintenance thereof is assumed by such public body; provided, however, Declarant may, in its sole discretion, reserve an easement over any such public roadway to be primarily maintained by such public body for the purpose of doing additional maintenance to said public streets and roads and to maintain landscaping along the unpaved rights-of-way thereof; and thereafter denominate in a plat or Supplemental Declaration that said easement shall constitute Common Areas of the Development to be maintained by the Association. The Board of Directors may levy a Special Assessment against all Owners, without the necessity of a vote pursuant to Section 11.5.1 hereof, in an amount sufficient to provide funds required to bring any roadway up to standards acceptable to any public body for the assumption by it of maintenance of said roadway. Nothing contained herein shall be construed to create any public rights in private roads and streets within the Development, if any, until such time as such roads are expressly dedicated or conveyed to and formally accepted by the State of Florida or political subdivision thereof.

5.5 Easements for Declarant. During the period that Declarant owns any of the Property for sale or has the unexpired option to add the Additional Property or any portion thereof to the Development, Declarant shall have an alienable and transferable right and easement on, over, through, under, and across the Common Areas for the purpose of constructing improvements in and to the Lots, Neighborhood Areas, Multi-Family Tracts, Development Unit Parcels, Unsubdivided Land, Golf and Country Club Property and the Additional Property and for installing, maintaining, repairing and replacing such other improvements to the Property (including the Recreational Amenities and other portions of the Common Areas) as are contemplated by this Declaration or as Declarant desires, in its sole discretion, including, without limitation, any improvements or changes permitted and described by Article 2, and for the purpose of doing all things reasonably necessary and proper in connection therewith, provided in no event shall Declarant have the obligation to do any of the foregoing.

5.6 Changes in Boundaries: Additions to Common Areas. Declarant expressly reserves for itself and its successors and assigns, the right to change and realign the boundaries of the Common Areas and any Lots, Dwellings, Neighborhood Areas, Multi-Family Tracts, Development Unit Parcels, Golf and Country Club Property and/or Unsubdivided Land between any such adjacent properties owned by Declarant, provided that any such change or realignment of boundaries shall not materially decrease the acreage of the Common Areas and shall be evidenced by a Supplemental Declaration which shall be filed in the Public Records of Flagler County, Florida. In addition, Declarant reserves the right, but shall not have the obligation, to convey to the Association at any time and from time to time any portion of the Additional Property, such real property to be conveyed to the Association as an addition to the Common Areas and subject to the provisions of Section 2.2. Furthermore, Declarant reserves for itself, its affiliates, successors, and assigns the right, but shall not have the obligation, to convey by quit-claim deed to the Association at any time and from time to time, as an

addition to the Common Areas any wetlands or marsh lands owned by Declarant which are located adjacent and contiguous to the Development.

5.7 Easements for Utilities. There is hereby reserved for the benefit of Declarant, the Association, and their respective successors and assigns, the alienable, transferrable and perpetual right and easement, as well as the power to grant and accept easements to and from any public authority or agency, public service district, public or private utility, or other person, upon, over, under and across (a) all of the Common Areas in accordance with this Declaration; (b) all portions of the Recreational Amenities in which improvements are not constructed or erected; (c) all portions of the Neighborhood Areas and in which Dwellings are not constructed or erected; (d) all portions of the Golf and Country Club Property in which buildings and improvements are not constructed (to the extent not in conflict with the design and operation of the golf course and related amenities); (e) those strips of land, ten (10') feet in width, running adjacent to and parallel with the front and rear lines of Lots, and fifteen (15') feet in width running seven and one-half (7 1/2) feet on either side of the side lot line of each Lot, not to conflict with any drainage easements thereon; and (f) such other such easement areas shown on any plat or recited in any Supplemental Declaration for the purpose of installing, replacing, repairing, maintaining, and using master television antenna and/or cable systems, security and similar systems, and all utilities, including, but not limited to, improvements of the Surface Water Management System, and electrical, gas, telephone, water, and sewer lines. Such easements may be granted or accepted by Declarant, its successors or assigns, or by the Board of Directors, provided, however, that for so long as Declarant has the right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association pursuant to Sections 10.1 and 13.1, the Board of Directors must obtain the written consent of Declarant prior to granting and accepting any such easements. To the extent practical, in Declarant's sole discretion, all utility lines and facilities serving the Development and located therein shall be located underground. By virtue of any such easement and facilities, it shall be expressly permissible for the providing utility company or other supplier or servicer, with respect to the portions of the Development so encumbered, (i) to erect and maintain pipes, lines, manholes, pumps, and other necessary equipment and facilities, (ii) to cut and remove any trees, bushes, or shrubbery, (iii) to grade, excavate, or fill or (iv) to take any other similar action reasonable necessary to provide economical and safe installation, maintenance, repair, replacement, and use of such utilities and systems.

5.8 Easement for Walks, Trails and Signs. There is hereby reserved for the benefit of Declarant, the Association, and their respective successors and assigns, the alienable, transferrable, and perpetual right and easement upon, over and across (a) all portions of the Neighborhood Areas in which Dwellings are not constructed or erected, (b) all portions of the Common Areas in which improvements are not constructed or erected, and (c) all areas shown and noted on any plat or described in any Supplemental Declaration for the installation maintenance, and use of sidewalks, leisure trails, bike paths, traffic directional signs, and related improvements.

5.9 Easements for Association. There is hereby reserved a general right and easement for the benefit of the Association, its directors, officers, agents, employees and licensees, including, but not limited to, the Architectural Review Board, its agents and representatives, and any manager employed by the Association and employees of such manager, to enter upon any Lot, Dwelling, Neighborhood Area, Multi-Family Tract or Development Unit Parcel, or any portion thereof, in the performance of their respective duties. Except in the event of emergencies, this easement is to be exercised only during normal business hours and then, whenever practicable, only upon advance notice to and with permission of the Owner directly affected thereby.

5.10 Easements for Additional Property. There is hereby reserved in Declarant, and its successors, assigns, and successors-in-title to the Additional Property, for the benefit of and as an appurtenance to the Additional Property and as a burden upon the Property, perpetual, non-exclusive rights and easements for (a) pedestrian and vehicular access, ingress, egress, parking over, across, within, and on all private roads (if any), sidewalks, trails, parking facilities, and lagoons, from time to time located within the Common Areas or within easements serving the Common Areas, (b) the installation, maintenance, repair, replacement, and use within the Common Areas, and those portions of properties encumbered pursuant to Section 5.7 of security systems and utility facilities and distribution lines, including, without limitation, improvements of the Surface Water Management System, and electrical, gas, telephone, water sewer, and master television antenna and/or cable system lines, and (c) drainage and discharge of surface water onto and across the Property and on, in and through the Surface Water Management System, provided that such drainage and discharge shall not materially damage or affect the Development or any improvements located thereon. Furthermore, in the event that the Additional Property or any portion or portions thereof are not added to the Development, then owners of residential units located therein shall also have, and there is hereby reserved for their benefit and as an appurtenance to their respective residential units, the perpetual, non-exclusive right and easement of access to and use and enjoyment of all of the Recreational Amenities, on a basis which is equal and equivalent to that enjoyed by Owners; provided, however, that as a condition precedent to the use of the Recreational Amenities by any such owner of a residential unit within any portion of the Additional Property not so added to the Development, such owner shall pay the Association Annual Assessments for the use of the Recreational Amenities, with such Annual Assessments to be calculated on the basis of an equitable proration among the owners and those owners of residential units in such portions of the Additional Property who use the Recreational Amenities of those Common Expenses which are attributable to the maintenance, repair, replacement, and operation of the Recreational Amenities. Families, Tenants, and guests of such owners within such portions of the Additional Property who pay such Assessments shall also have access to and use of the Recreational Amenities on an equal and equivalent basis as that enjoyed by families, Tenants, and guests of Owners, respectively.

5.11 Golf and Recreation Easement. There is hereby reserved for the benefit of Declarant and the Owner and/or operator from time to time of the Golf and Country Club Property and their respective employees, agents, licensees, invitees, members and guests a non-exclusive easement for ingress and egress, to, from and over and upon all portions of the Property, including all Lots, Multi-Family Tracts and Common Areas which are located nearby and adjacent to the Golf and Country Club Property for the purpose of allowing golf balls to travel over and into and to come to rest upon and be retrieved from any and all portions of the Property located nearby and adjacent to the Golf and Country Club Property. Inasmuch as it is not uncommon and, indeed, quite usual in the course of the playing of the game of golf for golf balls which are struck during the course of play to be hit beyond and leave the boundaries of the golf course being played and in so doing for such golf balls to travel over and come to rest upon or within properties nearby and adjacent to the golf course, neither the Declarant, nor any other Owner and/or operator from time to time of the Golf and Country Club Property nor their respective officers, directors, shareholders, partners, employees, agents, invitees, members or guests shall have any liability or responsibility whatsoever for any property damage occasioned by or personal injury to any person, whether an Owner or Occupant, or any member of such Owner's or Occupant's family or any employee, guest, licensee or invitee of such Owner or Occupant, who or which is accidentally struck by a golf ball which shall travel beyond the boundaries of the golf course located on the Golf and Country Club Property. Moreover, the travel, entry within and coming to rest of golf balls over, upon or within any property nearby or adjacent to the Golf and Country Club Property shall not be deemed to be or constitute a nuisance or hazard to the health, safety or welfare of the Owner of any property near or adjacent to the Golf and Country Club Property and no injunctive relief or damages therefor shall be

recoverable by any party or granted by any court; it being expressly agreed by any Owner of property nearby or adjacent to the Golf and Country Club Property that the risk of such personal injury or damage to property has been assumed by such Owner on behalf of said Owner, Tenants of such Owner, the members of their respective families and their respective employees, licensees, guests and other invitees at the time of the acceptance of a deed or other conveyance to said Owner's property.

5.11.1 Golf Cart Path Easements. There is hereby created, declared and reserved for the benefit of the Declarant and the Owner and/or operator from time to time of the Golf and Country Club Property and their respective employees, agents, licensees, invitees, members and guests a non-exclusive Golf Cart Path Easement over and upon all Golf Cart Path Easement areas shown on the Plat, together with a nonexclusive easement and license unto such benefited parties to enter upon such Golf Cart Path Easement areas for the purpose of constructing, installing, inspecting, maintaining, repairing or replacing from time to time a paved golf cart path and for ingress, egress and passage thereover by way of, and for the use and operation thereon of electric or other powered golf carts.

5.11.2 Assumption of Risk and Indemnification. Each Owner by its purchase of a Lot in the vicinity of the Golf and Country Club Property hereby expressly assumes the risk of noise, personal injury or property damage caused by maintenance and operation of the Golf and Country Club Property, including, without limitation: (a) noise from maintenance equipment, it being specifically understood that such maintenance typically takes place around sunrise or sunset, (b) noise caused by golfers, (c) use of pesticides, herbicides and fertilizers, (d) view restrictions caused by maturation of trees and shrubbery, (e) reduction in privacy caused by constant golf traffic on the Golf and Country Club Property or the removal or pruning of shrubbery or trees on the Golf and Country Club Property, and (f) design of the golf course and agrees that neither Declarant, Association nor any of Declarant's affiliates or agents nor any other entity owning or managing the Golf and Country Club Property shall be liable to Owner or any other person claiming any loss or damage, including, without limitation, indirect, special or consequential loss or damage arising from personal injury, destruction of property, trespass, loss of enjoyment or any other alleged wrong or entitlement to remedy based upon, due to, arising from or otherwise related to the proximity of Owner's Lot to the Golf and Country Club Property, including, without limitation, any claim arising in whole or in part from the negligence of Declarant, Association or any other entity owning or managing the Golf and Country Club Property. The Owner hereby agrees to indemnify and hold harmless Declarant, Association and any other entity owning or managing the Golf and Country Club Property against any and all claims by Owner's visitors, tenants and others upon such Owner's Lot.

5.12 Maintenance Easement. There is hereby reserved for the benefit of Declarant, the Association, and their respective agents, employees, successors, and assigns, an alienable, transferable, and perpetual right and easement to enter upon any property subject to this Declaration (except for the Golf and Country Club Property) for the purpose of providing insect, reptile and pest control, mowing, removing, clearing, cutting, or pruning underbrush, weeds, stumps, or other unsightly growth and removing trash, so as to maintain reasonable standards of health, fire safety, and appearance within the Development, provided that such easements shall not impose any duty or obligation upon Declarant or the Association to perform any such actions, or to provide garbage or trash removal services. Furthermore, it is hereby reserved for the benefit of the Declarant, the Association and their respective agents, employees, successors and assigns, an alienable, transferable, and perpetual right and easement, but not the obligation, to enter upon any unimproved portions of properties subject to this Declaration which are located within fifteen (15') feet from the water's edge of any lake, canal, lagoon, pond or other body of water within the Development for the purpose of (a) mowing such area and keeping the same clear and free from unsightly growth and trash, (b) maintaining such bodies of

water, such maintenance to include, without limitation, dredging and the maintenance of reasonable water quality standards, and (c) installing, constructing, repairing, replacing, and maintaining docks and bulkheads. Notwithstanding anything to the contrary contained in this Section 5.12, the Owner of the Golf and Country Club Property shall be obligated for maintenance and repair of the Golf and Country Club Property in accordance with the terms and conditions herein and Section 7.1, and in the event said Owner fails to maintain the Golf and Country Club Property, Declarant, the Association, and their respective agents, employees, successors, and assigns shall have the right and easement to enter upon the Golf and Country Club Property, or any portion thereof, for the purposes set forth in this Section 5.12 and Section 7.2.2.

5.13 Drainage Easements. There is hereby reserved for the benefit of the Declarant, the Association, all Owners and their respective successors and assigns a non-exclusive easement for storm water collection, retention, detention and drainage over, upon and within the rights-of-way of all streets and roads, the Surface Water Management System and all other drainage easements shown on the Plat or otherwise reserved, declared or created pursuant to this Declaration. There is further hereby reserved for the Declarant, the Association and their respective agents, employees, successors and assigns, an alienable, transferable, and perpetual right and easement on, over, and across all unimproved portions of properties subject to this Declaration for the purposes of constructing, installing, inspecting, maintaining, repairing and replacing the Surface Water Management System and all appurtenant improvements and facilities. Additionally, the Declarant, for the benefit of itself, the Association and all Owners hereby reserves easements over any and all other portions of the Property as may be reasonably required from time to time in order to provide storm water drainage to all or any portions of the Property; provided, however, that any such additional drainage easements shall not unreasonably interfere with the use and enjoyment by any Owners, the Common Area affected thereby or any improvements from time to time located on any portion of the Property.

5.14 Environmental Easement. There is hereby reserved for the benefit of Declarant, the Association and their respective agents, employees, successors, and assigns, an alienable, transferable, and perpetual right and easement on, over, and across all unimproved portions of properties subject to this Declaration (except for the Golf and Country Club Property) for the purpose of taking any action necessary to effect compliance with environmental rules, regulations, and procedures from time to time promulgated or instituted by the Board of Directors, the Architectural Review Board, or by any governmental entity, such easement to include, without limitation, the right to implement erosion control procedures and practices, the right to drain standing water, and the right to dispense pesticides. Notwithstanding anything to the contrary contained in this Section 5.14, the Owner of the Golf and Country Club Property shall be responsible for compliance with environmental laws, rules, regulations and procedures affecting the Golf and Country Club Property, and in the event said Owner fails to comply with same Declarant, the Association and their respective agents, employees, successors, and assigns shall have the right and easement to enter upon the Golf and Country Club Property, or any portion thereof, for the purposes set forth in this Section 5.14.

5.15 Wells and Effluent. There is hereby reserved for the benefit of Declarant, the Association, and their respective affiliates, agents, employees, successors, and assigns, an alienable, transferable, and perpetual right and easement (a) to pump water from lake, canal, lagoons, ponds, and other bodies of water located within the Development for the purpose of irrigating any portions of the Development, (b) to drill, install, locate, maintain, and use wells, pumping stations, water towers, siltation basins and tanks, and related water and sewer treatment facilities and systems within the Common Areas, or (c) to spray or locate any treated sewage effluent within the Common Areas, or upon any Lot or upon unimproved portions of any other property subject to this Declaration.

5.16 No Partition. There shall be no judicial partition of the Development or any part thereof; nor shall any person acquiring any interest in the Development or any part thereof seek any such judicial partition unless the Development has been removed from the provisions of this Declaration.

ARTICLE 6. MEMBERSHIP

6.1 Membership. Every Owner, including the Declarant, of a Lot, Dwelling, Multi-Family Tract, Development Unit Parcel and Unsubdivided Land shall be a Member of the Association. A Neighborhood Association shall not have any membership in the Association as a result of being the Owner of any property subject to this Declaration as common properties or common elements of any such association or the Owners of the Lots or Dwellings, as the case may be. Membership shall be appurtenant to and may not be separated from ownership of any Lot, Dwelling, Multi-Family Tract, Development Unit Parcel or Unsubdivided Land and ownership of a Lot, Dwelling, Multi-Family Tract, Development Unit Parcel or Unsubdivided Land shall be the sole qualification for such membership. In the event that fee title to a Lot, Dwelling, Multi-Family Tract, Development Unit Parcel or Unsubdivided Land is transferred or otherwise conveyed, the membership in the Association which is appurtenant thereto shall automatically pass to such transferee, notwithstanding any failure of the transferor to endorse to his transferee any certificates or other evidences of such membership. The foregoing is not intended to include Mortgagees or any other persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate or otherwise affect an Owner's membership in the Association. Notwithstanding anything herein, the Owner of the Golf and Country Club Property shall not be a member of the Association and shall have no rights of such membership.

6.2 Voting Rights. The Association shall have five (5) types of voting memberships which are as follows:

TYPE A: Type A Members shall be Owners (including the Declarant) of Lots and Dwellings. A Type A Member shall be entitled to one (1) vote for each Lot or Dwelling owned.

TYPE B: Type B Members shall be the Owners (including the Declarant) of Multi-Family Tracts. No specific number of votes is reserved hereunder for Multi-Family Tracts, there being none at the date hereof. The number of votes for each Multi-Family Tract owned by an Owner shall be that number as shall be set forth in a Supplemental Declaration upon the designation of any of the Additional Property as a Multi-Family Tract.

TYPE C: Type C Members shall be the Owners of Development Unit Parcels. No specific number of votes is reserved hereunder for Development Unit Parcels, there being none at the date hereof. The number of votes for each Development Unit Parcel owned by an Owner shall be that number as shall be set forth in a Supplemental Declaration upon the designation of any of the Additional Property as a Development Unit Parcel.

TYPE D: The Type D Member shall be the Declarant or its successors and assigns as Owner of Unsubdivided Land. No specific number of votes is reserved hereunder for Unsubdivided Lands, there being none at the date hereof. The number of votes for each piece, parcel or tract constituting Unsubdivided Land, and which is not contiguous to another such piece, parcel or tract, owned by the Declarant shall be that number

as shall be set forth in a Supplemental Declaration upon the designation of any of the Additional Property as an Unsubdivided Land.

TYPE E: The Type E Member shall be the Declarant or its designated assign. The Type E Member shall be entitled to one (1) vote for each vote held by Type A, B, C and D Members, plus one (1) vote, until the first of the following dates: (i) December 31, 2010; (ii) the date on which Declarant's right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association pursuant to Sections 10.1 and 13.1 is terminated; or (iii) the date the Type E Member relinquishes its voting rights as a Type E Member in a Supplemental Declaration filed in the Public Records of Flagler County, Florida. Thereafter, the Type E Member shall exercise votes only as to its Type A, B, C and D Memberships.

Payment of Special Assessments or Emergency Special Assessments shall not entitle Type A, B, C and D Members to additional votes.

6.2.1 Voting By Multiple Owners. When any property of a Type A, B, C, D or E Member of the Association is owned in the Public Records of Flagler County, Florida, in the name of two or more persons or entities, whether fiduciaries, or in any manner of joint or common ownership, or if two or more persons or entities have the same fiduciary relationship or order appointing them or creating the tenancy otherwise directs and it or a copy thereof is filed with the secretary of the Association, their acts with respect to voting shall have the following effect:

- (a) If only one votes, in person or by proxy, his act shall bind all;
- (b) If more than one vote, in person or by proxy, the act of the majority so voting shall bind all;
- (c) If more than one vote, in person or by proxy, but the vote is evenly split on any particular matter, the holders of the fractions shall determine among themselves as to how the vote or votes will be cast. No fractional voting will be allowed;
- (d) If the instrument or order filed with the secretary of the Association shows that any such tenancy is held in unequal interest, a majority or even split under subparagraph 2 and 3 immediately above shall be a majority or even split in interest in the property to which the vote(s) is attributable; and
- (e) The principles of this paragraph shall apply, insofar as possible, to execution of proxies, waivers, consents or objections and for the purpose of ascertaining the presence of a quorum.

6.3 Governance. The Association shall be governed by a Board of Directors consisting of three (3), Five (5), Seven (7), Nine (9), or Eleven (11) members. Initially, the Board shall consist of three (3) members, with the number in subsequent years to be determined by the members of the Board of Directors as provided for in the By-Laws of the Association.

6.4 Election of the Board of Directors. Each Member of Types A, B, C, D and E membership classes shall be entitled to as many votes as equals the number of votes he is entitled to, based on his ownership of one or more of the various classifications of property or property interests as computed by the formula set out hereinabove in Section 6.2. All votes must be cast in whole numbers and not fractions thereof. Members are divided into classes for the sole purpose of computing voting rights and shall not vote as a class.

6.4.1 Indemnification of the Board. The member of the Board of Directors, the officers of the Association as may be elected by the Board of Directors, and the managing agent of the Association, if any, shall not be liable to the Members for any mistake in judgment or acts or omissions made in good faith, as directors, officers or managing agent. The Members shall indemnify and hold harmless those parties against all contractual liabilities to others arising out of agreements made by those parties on behalf of the Members or the Association unless such agreements shall have been made in bad faith or with the intention of violating the provisions of this Declaration. The liability of any Member for the foregoing indemnity obligation shall be limited to the Member's proportionate share thereof as if same were an assessable Common Expense. All contracts and agreements entered into by the Board of Directors, officers or the managing agent shall be deemed executed by those parties, as the case may be, as agent for the Members or the Association.

6.5 Special Meetings of Members. Where specifically provided for herein, or on call of the Board of Directors or the person authorized to do so by the By-Laws, the Association shall hold special meetings of Members to approve or reject such actions proposed to be taken by the Association. The Association shall notice the Members of the date, time and place of such special meeting no fewer than ten (10) nor more than sixty (60) days before the meeting date. Such notice shall include a description of the purpose for which the meeting is called and shall provide for voting by proxy.

6.6 Quorum For Meetings. The quorum required for any action which is subject to a vote of the Members at an open meeting of the Association shall be as follows:

(a) At any meeting, the presence of Members representing one-third (1/3) of the votes of all Members, in person or by proxy, shall constitute a quorum for the transaction of business; provided, however, if the required quorum is not present, another meeting may be called, not earlier than sixty (60) days following the first meeting, and the required quorum at the subsequent meeting shall be the Members present, in person or by proxy, and entitled to vote. Unless otherwise provided, any reference hereafter to "votes cast" at a duly called meeting shall be construed to be subject to the quorum requirements established by this Section 6.6, and any other requirements for such duly called meeting which may be established by the By-Laws of the Association. This provision shall not apply when the proposed action is the amendment of this Declaration and the quorum requirement established by Section 13.3 shall govern in that instance.

6.6.1 Notice of Meetings. Notice of any meetings shall be given to the Members by the Secretary. Notice may be given to each Member either personally or by sending a copy of the notice through the mail, postage thereon fully prepaid, to his address appearing on the books of the Association. Each Member shall register his address with the Secretary and notices of meetings shall be mailed to such address. Notice of any meeting, regular or special, shall be mailed not more than sixty (60) days, and not fewer than ten (10) days in advance of the meeting and shall set forth the date, time and place of the meeting and in general the nature of the business to be transacted; provided, however, that if the business of any meeting shall involve and be governed by this Declaration or any action for which other provision is made in the By-Laws, notice of such meeting shall be given or sent as herein or therein provided.

6.7 Proxies. All Members of the Association may vote and transact business at any meeting of the Association by proxy authorized in writing, and in accordance with the By-Laws. Notwithstanding the foregoing, Members shall irrevocably appoint Declarant as their attorney-in-fact pursuant to Section 13.1.1 herein to vote on those matters reserved to and designated for Declarant, as set forth in that Section.

6.8 Voting By Proxy. When required by the Board of Directors, there shall be sent with notices of regular or special meetings of the Association, a statement of certain motions to be introduced for vote of the Members and a ballot in the form of a proxy on which each Member may, subject to Section 13.1.1 herein, vote for or against the motion. Each proxy which is presented at such meeting shall be counted in calculating the quorum requirements set out in Section 6.6. Provided, however, such proxies shall not be counted in determining whether a quorum is present to vote upon motions not appearing on the proxy. Each proxy must be dated, must state the date, time and place of the meeting for which it was given and must be signed by the authorized person who executed the proxy and is valid only for the specific meeting for which the proxy was originally given.

ARTICLE 7. MAINTENANCE

7.1 Responsibilities of Owners and Neighborhood Association. Unless specifically identified herein or in a Neighborhood Declaration as being the responsibility of the Association or a Neighborhood Association, all maintenance and repair of Lots, Dwellings, Multi-Family Tracts, Development Unit Parcels, Golf and Country Club Property or the marsh and waterfront property adjacent to any such property, together with all other improvements thereon or therein and all lawns, landscaping, and grounds on and within such property shall be the responsibility of the Owner thereof. Notwithstanding anything contained in this Declaration or in a Neighborhood Declaration to the contrary, each Owner of a Lot located adjacent to a lake or other body of water which has been bulkheaded shall be responsible for maintaining, repairing and replacing the bulkhead located within, on or adjacent to the boundary of such Owner's Lot. Each Owner of a Lot located adjacent to a bulkheaded lake or other body of water acknowledges that even though the Declarant has engineered the bulkheads to be located along the Lot's property line, the actual location of the bulkhead may be inside or outside the Lot boundaries. If the bulkhead is located within the boundary of a Lot, the same shall not be deemed an encroachment nor shall Declarant be deemed to have altered the Lot's configuration and any such Lot Owner agrees, by acceptance of the deed therefor, to accept the Lot as so developed. If the bulkhead is located outside the boundary of the Lot, the Owner of any such Lot shall nonetheless have the obligation to maintain the bulkhead as provided herein and Declarant hereby reserves and grants unto any such Owner such access and construction easements as such Owner may require in order to fulfill its maintenance obligations. Each such Owner shall obtain adequate property insurance, if same is available, for the benefit of such Owner and the Association insuring the Owner's bulkhead against loss or damage by fire or other hazards, including, without limitation, extended coverage, flood, vandalism, and malicious mischief, such coverage to be in an amount sufficient to cover the full replacement cost (without depreciation) of any repair or reconstruction of the bulkhead in the event of damage or destruction from any such hazard. Unless otherwise provided in the appropriate Neighborhood Declaration the maintenance and repair of all common areas or common elements of the Neighborhood Association (including all landscaping and grounds and all recreational facilities and other improvements thereof) shall be the responsibility of the Neighborhood Association, as the case may be. Each Owner and Neighborhood Association shall be responsible for maintaining its property in a neat, clean and sanitary condition, and such responsibility shall include the maintenance and care of all exterior surfaces of all Dwellings, buildings, and other structures and all lawns, trees, shrubs, hedges, grass and other landscaping. As provided in Section 7.2.2 hereof, each Owner and Neighborhood Association shall also be obligated to pay for the costs incurred by the Association for repairing, replacing, maintaining, or cleaning any item which is the responsibility of such Owner or Neighborhood Association, but which responsibility such Owner or Neighborhood Association fails or refuses to discharge. No Owner or Neighborhood Association shall (i) decorate, change, or otherwise alter the

appearance of any portion of the exterior of a Dwelling, building or other structure, or the landscaping, grounds, or other improvements within his or its property unless such decoration, change, or alteration is first approved, in writing, by the Architectural Review Board as provided in Article 4 hereof, or (ii) do any work which, in the reasonable opinion of the Architectural Review Board, would jeopardize the soundness and safety of the Development, reduce the value thereof, or impair any easement or hereditament thereto, without in every such case obtaining the written approval of the Architectural Review Board and the Owners, and the Mortgagees of property directly affected thereby or benefiting from such easement or hereditament.

7.2 Association's Responsibility.

7.2.1 General. Except as may be herein otherwise specifically provided, the Association shall maintain and keep in good repair all portions of the Common Areas, and any other easement area encumbering properties of Owners for which the Association is responsible under this Declaration, including responsibility prior to transfer to the Association in accordance with Section 2.3, or any Supplemental Declaration, which responsibility shall include the maintenance, repair, and replacement of (a) the Recreational Amenities, if any, (b) all private roads, if any, road shoulders, walks, trails, harbors, lakes, canals, lagoons, ponds, Surface Water Management System, parking lots, landscaped areas, and other improvements situated within the Common Areas or easements, (c) security systems and utility lines, pipes, plumbing, wires, conduits, and related systems which are a part of its said properties and which are not maintained by a public authority, public service district, public or private utility, or other person, and (d) all lawns, trees, shrubs, hedges, grass, and other landscaping situated within or upon its said properties. The Association shall not be liable for injury or damage to any person or property (i) caused by the elements or by any Owner or any other person, (ii) resulting from any rain or other surface water which may leak or flow from any portion of its properties, or (iii) caused by any pipe, plumbing, drain, conduit, appliance, equipment, security system, or utility line or facility. Nor shall the Association be liable to any Owner for loss or damage, by theft or otherwise, of any property of such Owner which may be stored in or upon any portion of its properties or any other portion of the Property. In no event will the Association or the Declarant be liable to any Owner for consequential damages as a result of loss or damage to person or property arising as a result of the acts or omissions of the Association or Declarant. No diminution or abatement of Assessments or Recreational Charges shall be claimed or allowed by reason of any alleged failure of the Association to take some action or to perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay such Assessments and Recreational Charges being a separate and independent covenant on the part of each Owner.

The Association may contract with any third-party person or entity to perform the maintenance obligations of the Association as set forth herein.

7.2.2 Work In Behalf of Owners. In the event that Declarant or the Board of Directors determines that: (a) any Owner has failed or refused to discharge properly its obligation with regard to the maintenance, cleaning, repair, or replacement of items for which he or it is responsible hereunder, or (b) that the need for maintenance, cleaning, repair, or replacement which is the responsibility of the Association hereunder is caused through the willful or negligent act of an Owner, said Owner's family, Tenants, guests, or invitees, and is not covered or paid for by insurance in whole or in part, then, in either event, Declarant or the Association, except in the event of an emergency situation, may give such Owner written notice in accordance with Section 13.15 of Declarant's or the Association's intent to provide such necessary maintenance, cleaning, repair, or replacement, at the sole cost and expense of such Owner, and setting forth with reasonable

particularity the maintenance, cleaning, repairs, or replacement deemed necessary. Except in the event of emergency situations, such Owner shall have fifteen (15) days within which to complete the same in a good and workmanlike manner, or in the event that such maintenance, cleaning, repair, or replacement is not capable of completion within said fifteen (15) day period, to commence said maintenance, cleaning, repair, or replacement and diligently proceed to complete the same in a good and workmanlike manner. In the event of emergency situations or the failure of any owner to comply with the provisions hereof after such notice, Declarant or the Association may provide (but shall not have the obligation to so provide) any such maintenance, cleaning, repair, or replacement at the sole cost and expense of such Owner and said cost shall be added to and become a part of the Assessment to which such Owner and his property are subject and shall become a lien against such property, or, in the case of a Neighborhood Association, shall be added to and become a part of the Assessments for all Owners of Lots or Dwellings, as the case may be. In the event that Declarant undertakes such maintenance, cleaning, repair, or replacement, the Association shall promptly reimburse Declarant for Declarant's costs and expenses.

7.3 Exculpation From Liability and Responsibility.

IT IS CONTEMPLATED THAT TITLE TO OR EASEMENTS FOR THE COMMON STREETS AND SURFACE WATER MANAGEMENT SYSTEM FOR THE DEVELOPMENT HAVE HERETOFORE BEEN OR SHALL HEREAFTER BE GRANTED AND CONVEYED BY THE DECLARANT TO THE ASSOCIATION OR THE CDD. FOLLOWING SUCH CONVEYANCE TO THE ASSOCIATION OR CDD, AS APPLICABLE, SHALL, SUBJECT TO THE TERMS AND PROVISIONS OF THIS DECLARATION, HAVE SOLE AND EXCLUSIVE JURISDICTION OVER AND RESPONSIBILITY FOR THE OWNERSHIP, ADMINISTRATION, MANAGEMENT, REGULATION, CARE, MAINTENANCE, REPAIR, RESTORATION, REPLACEMENT, IMPROVEMENT, PRESERVATION AND PROTECTION OF THE COMMON STREETS AND SURFACE WATER MANAGEMENT SYSTEM WITHIN THE DEVELOPMENT. ACCORDINGLY, EACH OWNER, BY THE ACCEPTANCE OF A DEED OR OTHER CONVEYANCE TO HIS LOT SHALL BE DEEMED TO HAVE AGREED THAT NEITHER THE DECLARANT, FLAGLER COUNTY NOR ANY OTHER GOVERNMENTAL AGENCY OTHER THAN THE CDD, IF APPLICABLE, SHALL HAVE ANY LIABILITY OR RESPONSIBILITY WHATSOEVER (WHETHER FINANCIAL OR OTHERWISE) WITH RESPECT TO THE COMMON STREETS AND THE SURFACE WATER MANAGEMENT SYSTEM FOR THE DEVELOPMENT AND EACH SUCH OWNER SHALL BE DEEMED TO HAVE FURTHER AGREED TO LOOK SOLELY AND EXCLUSIVELY TO THE ASSOCIATION WITH RESPECT TO ANY SUCH LIABILITY OR RESPONSIBILITY.

7.4 Community Development District. Notwithstanding anything contained in this Declaration to the contrary, the Declarant reserves for itself, the Association and their respective successors and assigns the right to dedicate, transfer, sell or otherwise convey portions of the Property including, without limitations, the Common Areas and recreation facilities, to the CDD for purposes of having the CDD construct, operate, maintain and repair any and all public improvements which the CDD may legally own and operate pursuant to the provisions of Chapter 190, Florida Statutes. Such public improvements may include, without limitation, roads, sewer and water facilities, landscaping, entry features, swimming pools, docks, parks, gazebos, leisure trails, bike paths and other recreational facilities. The Association may also contract with the CDD for the CDD to perform any maintenance or repairs of Common Areas and Areas of Common Responsibility. In the event the CDD is formed, each Owner shall execute all approvals and consents necessary to make all properties within the Development subject to the CDD and the laws, regulations and rules relating to the CDD. By acceptance of its deed of conveyance, each Owner appoints Declarant as attorney-in-fact for the Owner to

execute any and all such approvals, consents and other instruments necessary to fully implement the CDD and make said Owner's property subject to the CDD and the laws, regulations and rules relating to the CDD. The foregoing appointment is a power coupled with an interest and shall be irrevocable. Upon formation of the CDD, each Owner shall be solely responsible for all service charges, fees, taxes and assessments levied by the CDD with respect to the property owned by such Owner, and failure to pay same when due may result in the imposition of liens against the property of said Owner. Upon establishment of the CDD, all of the rights, duties, responsibilities and obligations of the Association under this Declaration relating to the improvements and functions undertaken by the CDD shall terminate and such rights, duties, responsibilities and obligations shall thereafter be undertaken and performed by the CDD.

ARTICLE 8. INSURANCE AND CASUALTY LOSSES

8.1 Insurance.

8.1.1 Association's Property Insurance. The Board of Directors or its duly authorized agents shall have the authority to and shall obtain and continue in effect adequate property insurance, in such form as the Board of Directors deems appropriate, for the benefit of the Association and insuring all insurable improvements in and to the Common Areas against loss or damage by fire or other hazards, including, without limitation, extended coverage, flood, vandalism, and malicious mischief, such coverage to be in an amount sufficient to cover the full replacement cost (without depreciation but subject to such deductible levels as are deemed reasonable by the Board) of any repair or reconstruction in the event of damage or destruction from any such hazard.

8.1.2 Association's Liability Insurance. The Board of Directors or its duly authorized agents shall have the authority to and shall obtain and continue in effect a public liability policy covering all the Common Areas and all damage or injury caused by the negligence of the Association, its Members, its directors and officers, or any of its agents. Such public liability policy shall provide such coverages as are determined to be necessary by the Board of Directors.

8.1.3 Association's Other Insurance. The Board or its duly authorized agents shall have the authority and may obtain (a) worker's compensation insurance to the extent necessary to comply with any applicable laws and (b) such other types and amounts of insurance as may be determined by the Board to be necessary or desirable, including, without limitation, directors and officers liability insurance.

8.1.4 Association's Policies. All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association as trustee for each of the Owners and costs of all such coverage shall be a Common Expense. Exclusive authority to adjust losses under policies obtained by the Association and hereafter in force with respect to the Development shall be vested in the Board of Directors; provided, however, that no mortgagee or other security holder of the Common Areas having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto. Insofar as permitted by law, the Association shall be required to make every effort to secure insurance policies with the provisions hereinafter set forth:

(a) All policies shall be written with a company licensed to do business in the State of Florida and holding a rating of A-M or better in such financial categories as established by Best's Insurance Reports, if such a company is available or, if not available, its equivalent rating or the best rating possible.

(b) All property insurance policies shall be for the benefit of the Owners and their Mortgagees as their interests may appear.

(c) All policies shall contain a waiver of the insurer's right to cancel without first giving thirty (30) days' prior written notice of such cancellation to the Association and to any Mortgagee to which a mortgagee endorsement has been issued.

(d) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners or their Mortgagees, and all policies shall contain a provision that the "other insurance" clauses in such policies exclude from consideration policies obtained by individual Owners or their Mortgagees.

(e) All policies shall contain a waiver of subrogation by the insurer as to any claims against the Association, the Association's directors and officers, the Owners, and their respective families, servants, agents, Tenants, guests, and invitees, including, without limitation, the Association's manager.

(f) All policies shall contain a provision that no policy may be cancelled, invalidated, or suspended on account of the conduct of one or more of the individual Owners, or their respective families, servants, agents, employees, Tenants, guests, and invitees, or on account of the acts of any director, officer, employee, or agent of the Association or of its manager, without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured.

(g) All liability insurance shall contain cross-liability endorsements to cover liability of the Association to an individual Owner.

8.1.5 Owner's Insurance. It shall be the individual responsibility of each Owner at his own expense to provide, as he sees fit, public liability, property damage, title, and other insurance with respect to his or its own property. The Board of Directors may require all Owners to carry public liability and property damage insurance with respect to their respective properties and to furnish copies or certificates thereof to the Association.

8.2 Damage or Destruction to Common Areas. Immediately after the damage or destruction by fire or other casualty to all or any part of the Common Areas covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance, and, in any such event, the Board shall obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Article 8, means repairing or restoring the damaged property to substantially the same condition in which it existed prior to the fire or other casualty. Unless within sixty (60) days following any damage or destruction to all or a part of the Common Area, Declarant, for so long as Declarant owns any of the Property primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Development, and the Board acting on the vote of at least seventy-five percent (75%) of the vote of the Members present, in person or by proxy, and entitled to vote at a duly called meeting

of the Members, shall otherwise agree, the Association shall restore or replace such damaged improvements. If the insurance proceeds, if any, for such damage or destruction are not sufficient to defray the cost thereof, and such deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, the Board of Directors may levy a Special Assessment against all Owners, without the necessity of a vote pursuant to Section 11.5.1 hereof, such Special Assessment to be in an amount sufficient to provide funds to pay such excess cost of repair or reconstruction. Such a Special Assessment shall be levied against the Owners in the same manner as Annual Assessments are levied, and additional Assessments may be made at any time during or following the completion of any repair or reconstruction. Any and all sums paid to the Association under and by virtue of such Assessments shall be held by and for the benefit of the Association together with the insurance proceeds, if any, for such damage or destruction. Such insurance proceeds and Assessments shall be disbursed by the Association in payment for such repair or reconstruction pursuant to and in accordance with such method of distribution as is established by the Board of Directors. Any proceeds remaining after defraying such costs shall be retained by and for the benefit of the Association. If it is determined that the damage or destruction for which the insurance proceeds are paid shall not be repaired or reconstructed, such proceeds shall be retained by and for the benefit of the Association, and the ruins of the Common Areas damaged or destroyed by fire or other casualty shall be cleared and the Common Areas left in a clean, orderly, safe, and sightly condition.

8.3 Damage or Destruction to Owners' Properties. In the event of damage or destruction by fire or other casualty to any property subject to this Declaration, or the improvements thereon, and in the further event that the Owner responsible for the repair and replacement of such property elects not to repair or rebuild, such Owner shall promptly clear away the ruins and debris of any damaged improvements or vegetation and leave such property in a clean, orderly, safe, and sightly condition. Should such Owner elect to repair or rebuild such property or other improvements thereon, such Owner shall repair or rebuild in accordance with the standard to which the improvements were originally constructed and in accordance with all applicable standards, restrictions, and provision of this Declaration (including, without limitation, Article 4) and all applicable zoning, subdivision, building, and other governmental regulations. All such work or repair or construction shall be commenced promptly following such damage or destruction and shall be carried through diligently to conclusion.

ARTICLE 9. CONDEMNATION

9.1 Condemnation of Common Areas. Whenever all or any part of the Common Areas of the Development shall be taken by any authority having the power of condemnation or eminent domain, or is conveyed in lieu thereof by the Board acting on the affirmative vote of seventy-five percent (75%) of the votes cast by Members present, in person or by proxy, and entitled to vote at a duly called meeting of the Members, and of Declarant, for so long as Declarant owns any of the Property primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Development, the award or proceeds made or collected for such taking or sale in lieu thereof shall be payable to the Association and shall be disbursed or held as follows:

9.1.1 Common Areas With Improvements. If the taking or sale in lieu thereof involves a portion of the Common Areas on which improvements have been constructed, then, unless within sixty (60) days after such taking Declarant, for so long as Declarant owns any of the Property primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Development, and the Board, acting on the vote of seventy-five percent (75%) of the votes cast by the Members present, in person or by proxy, and entitled to vote at a duly called meeting of the Members, shall otherwise agree, the

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Association shall restore or replace such improvements so taken, to the extent practicable, on the remaining lands included in the Common Areas which are available therefore, in accordance with the plans approved by the Board of Directors, the Architectural Review Board, and by Declarant, for so long as Declarant has the right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association pursuant to Sections 10.1 and 13.1. If the awards or proceeds are not sufficient to defray the cost of such repair and replacement and such deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, the Board of Directors may levy a Special Assessment against all Owners, without the necessity of a vote pursuant to Section 11.5, such Special Assessment to be in an amount sufficient to provide funds to pay such excess cost or repair or reconstruction. Such a Special Assessment shall be levied against the Owners equally in the same manner as Annual Assessments are levied, and additional Special Assessments may be made at any time during or following the completion of any repair or reconstruction. If such improvements are not to be repaired or restored, the award or proceeds shall be retained by and for the benefit of the Association.

9.1.2 Common Areas Without Improvements. If the taking or sale in lieu thereof does not involve any improvements to the Common Areas, or if there are net funds remaining after any such restoration or replacement of such improvements is completed, then such award, proceeds, or net funds shall be retained by and for the benefit of the Association.

9.1.3 Including Owner's Property. If the taking or sale in lieu thereof includes all or any part of an Owner's property and also includes any part of the Common Areas, then a court of competent jurisdiction shall apportion such award or proceeds and such award or proceeds shall be disbursed to the Association and the Owners so affected so as to give just compensation to the Owners for their interest in such property; provided, however, such apportionment may instead be resolved by the agreement of (i) the Board of Directors, (ii) the Owners of all properties wholly or partially taken or sold, together with the Mortgagees for each such property, and (iii) Declarant, for so long as Declarant owns any of the Property primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Development.

9.2 Condemnation of Owners' Properties.

9.2.1 Election Not To Restore. In the event that all or any part of a property subject to this Declaration, or any improvements thereon, is taken by any authority having the power of condemnation or eminent domain, or is conveyed in lieu thereof, and in the further event that the Owner of such property responsible for the maintenance and repair thereof elects not to restore the remainder of such property, then the Owner making such election shall promptly clear away any remaining improvements damaged or destroyed by such taking or conveyance and shall leave such property and any remaining undamaged improvements thereon in a clean, orderly, safe, and sightly condition. In addition, if the size or configuration of such property remaining after such taking or conveyance is insufficient to permit the restoration of the remaining improvements thereon or therein to their condition prior to such taking or conveyance in compliance with all applicable standards, restrictions, and provision of this Declaration and all applicable zoning, subdivision, building, and other governmental regulations, then such Owner shall have the option, after clearing away all remaining improvements or portions thereof and placing the remainder in a clean, orderly, safe, and sightly condition referred to above, of deeding the remaining portion of the property to the Association as a part of the Common Areas, and thereafter any such Owner shall not have any further voting rights or membership rights or privileges in the Association or with respect to the Development and shall not be subject to any further

Assessments imposed by the Association and payable after the date of such deeding and attributable to such property deeded to the Association.

9.2.2 Election to Restore. In the event that any part of a property subject to this Declaration, or any improvements thereon, is taken by any authority having the power of condemnation or eminent domain, or is conveyed in lieu thereof, and if the Owner of such property responsible for the maintenance and repair of property elects to restore the remainder thereof such Owner making such election shall restore such remainder thereof as nearly as practicable to the same condition it was in prior to such taking or conveyance and in accordance with all applicable standards, restrictions, and provisions of this Declaration and all applicable zoning, subdivision, building, and other governmental regulations. Any such work of restoration shall be commenced promptly following such taking or conveyance and shall be carried through diligently to conclusion.

ARTICLE 10. FUNCTIONS OF THE ASSOCIATION

10.1 Board of Directors and Officers. The Association, subject to the rights of Declarant and the rights and duties of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Areas and all improvements thereon (including furnishings and equipment related thereto) and shall keep the same in a good, clean, attractive and sanitary condition, order, and repair, pursuant to the terms and conditions thereof. Except to the extent otherwise required by the provisions of Sections 617.301 - 617.312, Florida Statutes, this Declaration, the By-Laws, or the Articles of Incorporation, the powers herein or otherwise granted to the association may be exercised by the Board of Directors, acting through the officers of the association, without any further consent or action on the part of the Owners. As provided in Section 13.1 hereof and notwithstanding any other provision to the contrary contained in any instruments evidencing or establishing the Development, Declarant shall have the right to appoint or remove any member or members of the Board of Directors or any officer or officers of the Association until such time as the first of the following dates: (i) December 31, 2010; (ii) the date on which Declarant has conveyed to Owners other than Declarant property representing seventy-five (75%) percent of the total numbers of Lots and Dwellings on all of the Property; or (iii) the date the Declarant surrenders the authority to appoint and remove directors and officers of the Association by an express amendment to this Declaration executed and filed in the Public Records of Flagler County, Florida, by Declarant. Each owner, by acceptance of a deed to or other conveyance of a Lot or Dwelling, vests in Declarant such authority to appoint and remove directors and officers of the Association as provided by this Section 10.1 and by Section 13.1 hereof.

10.2 Duties and Powers. The duties and powers of the Association shall be those set forth in the provision of Sections 617.301 - 617.312, Florida Statutes, this Declaration, the By-Laws, and the Articles of incorporation, together with those reasonably implied to effect the purposes of the Association; provided; however, that if there are conflicts or inconsistencies between Sections 617.301 - 617.312, Florida Statutes, this Declaration, the By-Laws, or the Articles of Incorporation, the provisions of Sections 617.301 - 617.312, Florida Statutes, this Declaration, the Articles of Incorporation, and the By-Laws, in that order, shall prevail, and each Owner of a property within the Development, by acceptance of a deed or other conveyance therefor, covenants to vote in favor of such amendments which will remove such conflicts or inconsistencies. The Association may exercise any other right or privilege given to it expressly by this Declaration or by law, together with every other right or privilege reasonable to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege. Such powers of the Association shall include, but shall not be limited to, the power to purchase one or more properties subject

to this Declaration and to hold, lease, mortgage, sell, and convey the same. Such duties may include, but shall not be limited to, arranging with governmental agencies, public service districts, public or private utilities, or others, as a Common Expense or by billing directly to the Owners, to furnish trash collections, water, sewer, and/or security service for the properties subject to this Declaration. Notwithstanding the foregoing provision of this Section 10.2 or any other provision of this Declaration to the contrary, for so long as Declarant has the right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association pursuant to Sections 10.1 and 13.1, the Association shall not, without the consent of Declarant, borrow money or pledge, mortgage, or hypothecate all or any portion of the Common Areas. Additionally, provided that Declarant has obtained approval from the United States Department of Housing and Urban Development, Federal Housing Administration, and Veterans Administration for their making, insuring or purchasing loans on Dwellings in the Property, then notwithstanding the foregoing provision of this Section 10.2 or any other provision of this Declaration to the contrary, upon the conveyance of the Common Areas to the Association, the Association shall not mortgage, pledge or convey all or any portion of the Common Areas without the consent of at least two-thirds (2/3) of the Owners (excluding Declarant).

10.2.1 Ownership of Properties. The Association shall be authorized to own, purchase, lease, use under any use agreement, and maintain (subject to the requirements of any federal, state or local governing body of Florida) Common Areas, equipment, furnishings, and improvements devoted to the uses and purposes expressed and implied in this Declaration, including, but not limited to, the following uses:

- (a) For sidewalks, walking paths or trails, bicycle paths and golf cart paths throughout the Property;
- (b) For transportation facilities throughout the Property other than privately owned automobiles, e.g. buses, electric vehicles, etc.
- (c) For security services including security stations, maintenance building and/or guardhouses;
- (d) For providing any of the services which the Association is authorized to offer under Section 10.2.2 below;
- (e) For purposes set out in deeds or long-term leases or use agreements by which Common Areas are conveyed or leased by which use rights are granted to the Association;
- (f) For play fields, lakes, canals, lagoons, waterways, wetlands areas, Surface Water Management System and wildlife areas;
- (g) For water and sewage facilities and any other utilities, if not adequately provided by a private utility or public body; and
- (h) For renourishment and installation and/or maintenance of any shore protection device, including, but not limited to, shore revetments and groins.

10.2.2 Services. The Association shall be authorized (unless prohibited by the requirements of any federal, state or local governing body) to provide such services as shall be required or would promote

the uses and purposes for which the Association is formed as expressed or implied in this Declaration, including, but not limited to, the following services:

- (a) Cleanup and maintenance of all roads, roadways, road shoulders, roadway medians, parkways, lakes, lagoons, waterways, Surface Water Management System, wetlands, marshes and Common Areas within the Property and also all public properties which are located within or in a reasonable proximity to the Property such that their deterioration would affect the appearance of the Property as a whole;
- (b) Landscaping of sidewalks, walking paths and any Common Areas;
- (c) Transportation facilities other than privately owned automobiles, e.g. buses, electric vehicles, etc.;
- (d) Lighting of sidewalks and walking paths throughout the Property;
- (e) Security provisions including, but not limited to, the employment of security guards, maintenance of electronic and other security devices and control centers for the protection of persons and property within the Property and assistance to the local police and sheriff departments in the apprehension and prosecution of persons who violate the laws of Florida within the Property;
- (f) Insect and pest control to the extent that it is necessary or desirable in the judgment of the Board of Directors of the Association to supplement the service provided by the state and local governments;
- (g) The services necessary or desirable in the judgment of the Board of Directors of the Association to carry out the Association's obligations and business under the terms of this Declaration and to collect regular Annual Assessments, Special Assessments, Emergency Special Assessment, Recreational Charges and other fees and charges collectable from the Owners hereunder;
- (h) To take any and all actions necessary to enforce these and all covenants and restrictions affecting the Property and to perform any of the functions or services delegated to the Association in any covenants or restrictions applicable to the Property;
- (i) To set up and operate an architectural review board in the event that the Association is assigned the Architectural Control function by the Declarant pursuant to Section 4.2.1;
- (j) To conduct recreation, sport, craft, and cultural, programs of interest to Members, their children and guests;
- (k) To provide legal and scientific resources for the improvement of air and water quality within the Property;
- (l) To provide safety equipment for storm emergencies;
- (m) To construct improvements on Common Areas for use for any of the purposes or as may be required to provide the services as authorized in this Section;

(n) To provide administrative services including but not limited to legal, accounting and financial; and communications services informing Members of activities, notice of Meetings, Referendums, etc., incident to the above listed services;

(o) To provide liability and hazard insurance covering improvements and activities on Common Areas;

(p) To provide water, sewage, and any necessary utility services not provided by a public body, private utility or the Declarant;

(q) To provide and maintain water pollution and shoreline erosion abatement measures including maintenance and repair of revetments and groins;

(r) To provide any or all of the above listed services to another association or Owners of real property under a contract, the terms of which must be approved by the Board of Directors; and

(s) To provide for hearings and appeal process for violations of rules and regulations.

10.3 Agreements. Subject to the prior approval of Declarant for so long as Declarant has the right to appoint or remove any member or members of the Board of Directors or any officer or officers of the Association pursuant to Sections 10.1 and 13.1, all agreements and determinations lawfully authorized by the Board of Directors shall be binding upon the Association and all Owners, their heirs, legal representatives, successors, and assigns, and all others having an interest in the Development or the privilege of possession and enjoyment of any part of the Development shall comply with and be subject to the authorized actions of the Board of Directors; and in performing its responsibilities hereunder, the Association, through its Board of Directors, shall have the authority to delegate to persons of its choice such duties of the Association as may be determined by the Board of Directors. In furtherance of the foregoing and not in limitation thereof, the Association may obtain and pay for the services of any person or entity to manage its affairs or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall deem necessary or desirable for the proper operation of the Development, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or with which it contracts. Without limiting the foregoing, the Association may contract with any third-party person or entity to perform any maintenance or repair obligations of the Association as set forth in this Declaration. All costs and expenses incident to the employment of a manager or contractor shall be a Common Expense. During the term of such management agreement, such manager may, if authorized by the Board of Directors, exercise all of the powers and shall be responsible for the performance of all the duties of the Association, excepting any of those powers or duties specifically and exclusively reserved to the directors, officers, or Members of the Association by this Declaration or the By-Laws. Such manager may be an individual, corporation, or other legal entity, as the Board of Directors shall determine, and may be bonded in such a manner as the Board of Directors may require, with the cost of acquiring any such bond to be a Common Expense. In addition, the Association may pay for, and the Board of Directors may hire and contract for, such legal and accounting services as are necessary or desirable in connection with the operation of the Development or the enforcement of this Declaration, the By-Laws, or the rules and regulations of the Association.

10.4 Mortgage or Pledge. Subject to the provisions of Section 5.2.1, the Board of Directors of the Association shall have the power and authority to mortgage the property of the Association and to pledge the revenues of the Association as security for loans made to the Association which loans shall be used by the Association in performing its authorized functions. The Declarant may make loans to the Association, subject to approval by the Declarant of the use to which such loan proceeds will be put and the terms pursuant to which such loans will be repaid. Notwithstanding anything in this Declaration to the contrary, the Association shall not be allowed to reduce the limits of the regular Annual Assessment at any time there are outstanding any amounts due the Declarant as repayment of any loans made by the Declarant to the Association.

10.5 Management Agreement. Grand Haven/Palm Coast, Inc., or an affiliate may be employed as the manager of the Association and the Development for such period of time as Declarant has the right to appoint and remove officers and directors of the Association, with the option on the part of Grand Haven/Palm Coast, Inc., or its affiliate to renew such employment for three (3) successive one-year terms from and after the termination of such appointment and removal right. Every grantee of any interest in the Development, by acceptance of a deed or other conveyance of such interest, shall be deemed to ratify such management agreement.

10.6 Personal Property and Real Property for Common Use. The Association, through action of its Board of Directors, may acquire and hold tangible and intangible personal property and real property and may dispose of the same by sale or otherwise. All funds received and title to all properties acquired by the Association and the proceeds thereof, after deducting therefrom the costs incurred by the Association in acquiring or selling the same, shall be held by and for the benefit of the Association. The shares of the Owners in the funds and assets of the Association cannot be individually assigned, hypothecated, or transferred in any manner, except to the extent that a transfer of the ownership of a Lot or Dwelling also transfers the membership in the Association which is an appurtenance to such Lot or Dwelling.

10.7 Rules and Regulations. As provided in Article 12 hereof, the Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the Lots, Dwellings, Neighborhood Areas and Common Areas, which rules and regulations shall be consistent with the rights and duties established by this Declaration.

10.8 Obligation of the Association. The Association shall not be obligated to carry out or offer any of the functions and services specified by the provisions of this Article. The functions and services to be carried out or offered by the Association at any particular time shall be determined by the Board of Directors of the Association taking into consideration the funds available to the Association and the needs of the Members of the Association. Special Assessments shall be submitted for approval as herein provided. For so long as Declarant retains its voting rights as a Type E Member, the functions and services which the Association is authorized to carry out or to provide may be added or reduced at any time upon the affirmative vote of a majority of the votes cast by Members present, in person or by proxy, and entitled to vote at a duly called special meeting of the Members. At such time as Declarant no longer has voting rights as a Type E Member, pursuant to Section 6.2 herein, the functions and services which the Association is authorized to carry out or to provide may be added or reduced at any time upon the affirmative vote of two-thirds (2/3) of the votes cast by the Members present, in person or by proxy, and entitled to vote at a duly called meeting of the Members.

10.9 Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of the Members as hereinafter provided. The Association shall prepare a budget of the total estimated cost of the litigation which shall be submitted to the Members for a vote along with the notice of the proposed litigation. The budget shall be based upon an estimate of the total cost of the litigation made by the attorney being retained by the Association for the litigation. The Association shall assess all Owners (other than the Declarant) by Special Assessment for the total estimated costs and fees of the proposed litigation and no funds from Common Assessments or capital contributions may be used for such purpose. Both the proposed litigation, the budget and the assessment for the litigation must be approved by a vote of the Members representing seventy-five percent (75%) of the total votes of the Association. This Section shall not apply, however to (a) actions brought by the Association against parties other than Declarant to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of Assessments as provided herein, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is made by the Declarant or is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above. Any amendment of this Section shall also require the approval of the Declarant in writing.

ARTICLE 11. ASSESSMENTS

11.1 Purpose of Assessments. The Assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of the Development, and maintaining the Development and improvements therein, all as may be more specifically authorized from time to time by the Board of Directors.

11.2 Creation of Lien and Personal Obligation of Assessments. Each owner, by acceptance of a deed or other conveyance thereof, whether or not it shall be so expressed in such deed or conveyance, is deemed to covenant and agree to pay to the Association: (a) Annual Assessments, such Assessments to be established and collected as provided in this Section 11.2, (b) Special Assessments, such Assessments to be established and collected as provided in Section 11.5, (c) Emergency Special Assessments, such Assessments to be established and collected as provided in Section 11.6, (d) individual or specific Assessments against any particular property which are established pursuant to the terms of this Declaration, including, but not limited to, fines as may be imposed against a property in accordance with Article 12 hereof. Any such Assessments and any Recreational Charges payable, together with late charges, simple interest at the rate of fifteen percent (15%) per annum, and court costs and attorneys' fees incurred to enforce or collect such Assessments or Recreational Charges, shall be an equitable charge and a continuing lien upon the property of the Owner thereof which is responsible for payment. Each Owner shall be personally liable for Assessments or Recreational Charges coming due while he is the Owner of a property, and his grantee shall take title to such property subject to the equitable charge and continuing lien therefor, but without prejudice to the rights of such grantee to recover from his grantor any amounts paid by such grantee therefor; provided, however, the lien for unpaid Assessments or Recreational Charges shall not apply to the holder of any Institutional Mortgage or to the holder of any Mortgage securing a loan made by Declarant, its affiliates, successors, or assigns, and who takes title to a Lot or Dwelling through foreclosure, or to any purchaser of such property through foreclosure. In the event of co-ownership of any property subject to this Declaration, all of such co-Owners shall be jointly and severally liable for the entire amount of such Assessments and Recreational Charges. Assessments and Recreational Charges shall be paid in such manner and on such dates as may be fixed by the Board of Directors in accordance with Section 11.3.5, provided that unless otherwise provided by the Board, the Annual Assessments shall be paid in equal monthly installments.

11.3 Establishment of Annual Assessment. It shall be the duty of the Board of Directors at least thirty (30) days prior to the Association's annual meeting to prepare a budget covering the estimated Common Expenses during the coming year, such budget to include a capital contribution or reserve account if necessary for the capital needs of the Association. The Board shall cause the budget and the proposed total of the Annual Assessments to be levied against properties subject to this Declaration for the following year to be delivered to each Owner at least fifteen (15) days prior to such meeting. The total Annual Assessments shall be divided among the said properties as follows:

- (a) Each Lot shall be subject to the same Annual Assessments as a Dwelling.
- (b) Each other type of property provided under this Declaration shall bear an Assessment equal to that amount, or in accordance with a formula, set forth in a Supplemental Declaration hereto

11.3.1 Additional Property. Upon the addition of any Additional Property pursuant to Section 2.2, such Additional Property shall be assessed or charged as hereinabove provided and on an equal basis with the then existing types of property subject to this Declaration. In such event, the Association's budget shall be accordingly revised by the Board of Directors, without the necessity of approval by the Owners, to include any Common Expenses related to such Additional Property.

11.3.2 Approval of Annual Assessments. The annual budget and Annual Assessments, as determined by the Board of Directors, as hereinabove provided, shall become effective unless disapproved by (a) the Declarant, so long as Declarant has the right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association pursuant to Sections 10.1 and 13.1 or (b) a majority of the votes cast, in person or by proxy, by Members entitled to vote at a duly called meeting. Notwithstanding the foregoing, in the event the proposed budget and Annual Assessments are not approved or the Board of Directors fails for any reason to determine the budget for the succeeding year and to set the Assessments, then and until such time as a budget and Annual Assessment shall have been determined as provided herein, the budget and Annual Assessments for the succeeding year shall be the Maximum Budget and Maximum Annual Assessments calculated in accordance with Section 11.4.

11.3.3 Special Meeting to Increase Annual Assessments. If the Board of Directors of the Association, by majority vote, determines that the important and essential functions of the Association will not be properly funded in any year by the Annual Assessment herein provided, it may call a special meeting of the Members in accordance with the provisions of Section 6.5 herein requesting approval of a specified increase in such Assessment. The proposed increased Assessment shall be levied upon the affirmative vote of two-thirds (2/3) of the votes cast by Members present, in person or by proxy, and entitled to vote at the special meeting. An increase in Annual Assessments in any year pursuant to a special meeting taken as aforesaid shall in no way affect Annual Assessments for subsequent years.

11.3.4 Initial Annual Assessments. The initial Annual Assessment for all Owners of Lots and Dwellings for the calendar year in which this Declaration is filed in the Public Records of Flagler County, Florida, shall be the amount designated to cover operating and annual meeting costs and expenses of the Association set forth in the initial budget for the Development.

11.3.5 Billing of Annual Assessments. The Annual Assessments may, in the sole discretion of the Board of Directors, be billed monthly, quarterly, semiannually or annually, and bills therefor shall be due and payable thirty (30) days from the date of mailing of same.

11.3.6 Rounding. All Annual Assessments charged by the Association shall be rounded off to the nearest dollar.

11.3.7 For Common Expenses. The Common Expenses to be funded by the Annual Assessments may include, but shall not necessarily be limited to, the following:

- (a) assessments charged against the Association and Owners by the PCCSC;
- (b) assessments charged against the Association and Owners by the Master Association;
- (c) management fees and expenses of administration, including legal and accounting fees;
- (d) utility charges for utilities serving the Common Areas and charges for other common services for the Development, including trash collection and security services, if any such services or charges are provided or paid by the Association;
- (e) the cost of any policies of insurance purchased for the benefit of all the Owners and the Association as required or permitted by this Declaration, including fire, flood, and other hazard coverage, public liability coverage, and such other insurance coverage as the Board of Directors determines to be in the interests of the Association and the Owners;
- (f) the expenses of maintenance, operation, and repair of those portions of the Common Areas which are the responsibility of the Association under the provisions of this Declaration;
- (g) the expenses of maintenance, operation, and repair of other amenities and facilities serving the Development, the maintenance, operation, and repair of which the Board from time to time determines to be in the best interest of the Association;
- (h) the expenses of the Architectural Review Board, if the functions thereof are transferred and conveyed to the Association pursuant to Section 4.2.1, which are not defrayed by plan review charges;
- (i) ad valorem real and personal property taxes assessed and levied against the Common Areas;
- (j) other expenses for conducting recreational, cultural, or other related programs for the benefit of the Owners and their families, Tenants, guests, and invitees;
- (k) such other expenses as may be determined from time to time by the Board of Directors of the Association to be Common Expenses, including, without limitation taxes and governmental charges not separately assessed against Lots, Dwellings, or Neighborhood Areas;

(l) the establishment and maintenance of a reasonable reserve fund or funds (i) for maintenance, repair, and replacement of those portions of the Common Areas which are the responsibility of the Association and which must be maintained, repaired, or replaced on a periodic basis, (ii) to cover emergencies and repairs required as a result of casualties which are not funded by insurance proceeds, and (iii) to cover unforeseen operating contingencies or deficiencies arising from unpaid Assessments or liens, as well as from emergency expenditures and other matters, all as may be authorized from time to time by the Board of Directors.

11.3.8 Reserve Funds. The Association may establish reserve funds from its regular Annual Assessments to be held in reserve in an interest drawing account or investments as a reserve for (a) major rehabilitation or major repairs to Common Areas, (b) for emergency and other repairs required as a result of storm, fire, natural disaster, or other casualty loss, (c) recurring periodic maintenance, and (d) initial costs of any new service to be performed by the Association.

11.4 Determination of Maximum Budget and Maximum Annual Assessment. The Maximum Budget and Maximum Annual Assessments shall be the greater of:

(a) The budget and Annual Assessments for the then current year, increased in proportion to the percentage increase, if any, for the then current year, in the "CPI-U," as hereinafter defined, from December of the preceding year to November of the then current year in which the said maximum budget and Annual Assessment is being determined, or by ten percent (10%), whichever is greater; or

(b) The budget and Annual Assessments for the year in which this Declaration is filed in the Public Records of Flagler County, Florida, increased, to the year in which the said maximum budget and Annual Assessment is being determined in proportion to the percentage increase, if any, in the "CPI-U," as hereinafter defined, from December of the year preceding the year in which this Declaration is filed in the Public Records of Flagler County, Florida, to November of the year in which the said maximum budget and Annual Assessment is being determined, or by ten percent (10%) per annum, compounded, whichever is greater.

The "CPI-U" shall mean the Consumer Price Index for M1 Urban Consumers (1982-84=100), or, if such index is discontinued or revised, by reference to such other government index or computation with which it is replaced or which would produce substantially the same measure as would be obtained if such index had not been discontinued or revised.

11.4.1 Change in Maximum Amounts Upon Merger. The limitations of Section 11.4 shall apply to any merger or consolidation in which the Association is authorized to participate under Section 2.2.3, and under the By-Laws of the Association.

11.5 Special Assessments for Improvements and Additions. In addition to the regular, Annual Assessments authorized by Section 11.3 hereof, the Association may levy Special Assessments, for the following purposes:

(a) Construction or reconstruction, repair or replacement of capital improvements upon the Common Areas, including the necessary fixtures and personal property related thereto;

(b) To provide for the necessary facilities and equipment to offer the services authorized herein;

(c) To repay any loan made to the Association to enable it to perform the duties and functions authorized herein.

11.5.1 Approval of Special Assessments. Except as otherwise permitted in Sections 5.4.2, 8.2, 9.1 and 11.6 hereof, any Special Assessment shall be approved by (i) Declarant for so long as Declarant has the right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association pursuant to Sections 10.1 and 13.1, and (ii) thereafter by two-thirds (2/3) of the votes cast by Members in person or by proxy, and entitled to vote at a special meeting of the Members called for that purpose in accordance with the provisions of Section 6.5 herein. The notice of such special meeting shall include one statement from the Directors favoring the Special Assessment and one statement from those Directors opposing the Special Assessment containing the reasons for those Directors' support and opposition for the Assessment. Neither statement shall exceed five pages in length.

11.5.2 Interpretation: Maximum Special Assessment. This provision shall be interpreted to mean that the Association may make in any one year an Annual Assessment as set forth in Section 11.3 plus an additional Special Assessment. Such Special Assessment in any one year may not exceed a sum equal to the amount of the Maximum Annual Assessment, as calculated in accordance with Section 11.4 for such year. The fact that the Association has made an Annual Assessment for an amount up to the permitted Maximum Annual Assessment shall not affect its right to make a Special Assessment during the year.

11.5.3 Apportionment. The proportion of each Special Assessment to be paid by the Owners of the various classifications of assessable property shall be equal to the proportion of the regular Annual Assessments made for the Assessment year during which such Special Assessments are approved by the Members.

11.6 Emergency Special Assessments. In addition to the Annual Assessments authorized by Section 11.3 and the Special Assessment authorized by Section 11.5 hereof, the Association may levy Assessments for repairs, reconstruction, alterations or improvements due to emergencies of any type, as determined by the Declarant and/or the Board of Directors, in their sole discretion ("Emergency Special Assessment"). Any Emergency Special Assessment may be imposed without a vote of the Members.

11.7 Declarant's Properties. Anything contained herein to the contrary notwithstanding, Declarant shall be exempt from the payment of any Annual Assessments, Special Assessments and Emergency Special Assessments with respect to unimproved and unoccupied properties owned by the Declarant and subject to this Declaration. The Declarant hereby covenants and agrees, however, that, so long as Declarant has the right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association pursuant to Sections 10.1 and 13.1, it shall pay to the Association, at the end of the annual accounting period, a sum of money equal to any operating deficit experienced by the Association, exclusive of any reserves for the replacement of improvements; provided, however, the Declarant shall not pay more than a sum equal to the amount of the Assessment for said year, or portion thereof owned, which the Declarant would have paid if the exempted property were not exempt.

11.8 Individual Assessments. Any expenses of the Association or the Declarant occasioned by the conduct of less than all of the Owners or by the family, Tenants, agents, guests, or invitees of any Owner shall

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be specially assessed against such Owners and their respective Lots or Dwellings. The individual Assessments provided for in this Section 11.8 shall be levied by the Board of Directors and the amount and due date of such Assessment so levied by the Board shall be as specified by the Board.

11.9 Effect of Nonpayment: Remedies of the Association. Any Assessments or Recreational Charges of an Owner or any portions thereof which are not paid when due shall be delinquent. Any Assessment or Recreational Charges delinquent for a period of more than ten (10) days after the date when due shall incur a late charge in an amount as may be determined by the Board from time to time and, upon adoption of a policy therefor by the Board of Directors, shall also commence to accrue simple interest at the rate of fifteen percent (15%) per annum. A lien and equitable charge as herein provided for each Assessment or Recreational Charge shall attach simultaneously as the same shall become due and payable, and if an Assessment or Recreational Charge has not been paid within thirty (30) days, the entire unpaid balance of the Assessment or Recreational Charge may be accelerated by the option of the Board and be declared due and payable in full. The continuing lien and equitable charge of such Assessment or Recreational Charge shall include the late charge established by the Board of Directors, and, upon adoption of a policy therefor by the Board of Directors, interest on the principal amount due at the rate of fifteen percent (15%) per annum, all costs of collection (including reasonable attorneys' fees and court costs), and any other amounts provided or permitted hereunder or by law. In the event that the Assessment or Recreational Charge remains unpaid after sixty (60) days from the original due date, the Association may, as the Board shall determine, institute suit to collect such amounts and to foreclose its lien. The equitable charge and lien provided for in this Section shall be in favor of the Association, and each Owner, by his acceptance of a deed or other conveyance to a Lot or Dwelling, vests in the Association and its agents the right and power to bring all actions against him personally for the collection of such Assessments and Recreational Charges as a debt and/or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The Association shall have the power to bid on the Lot or Dwelling at any foreclosure sale and to acquire, hold, lease, mortgage, and convey the same. No Owner may waive or otherwise escape liability for the Assessments and Recreational Charges provided for herein, including by way of illustration but not limitation, non-use of the Common Areas or abandonment of his Lot or Dwelling, and an Owner shall remain personally liable for Assessments, Recreational Charges, interest and late charges which accrue prior to a sale, transfer or other conveyance of his Lot or Dwelling.

11.10 Certificate. The Treasurer, any Assistant Treasurer, or the manager of the Association shall, within ten (10) days of a written request and upon payment of such fee as is from time to time determined by the Board of Directors, furnish to any Owner or such Owner's Mortgagee which requests the same, a certificate in writing signed by said Treasurer, Assistant Treasurer, or manager setting forth whether the Assessments and Recreational Charges for which such Owner is responsible have been paid, and, if not paid, the outstanding amount due and owing, together with all fines, accrued interest, and other penalty charges. Such certificate shall be conclusive evidence against all but such Owner of payment of any Assessments and Recreational Charges stated therein to have been paid.

11.11 Date of Commencement of Assessments. The Assessments provided for herein shall commence as to property subject to this Declaration on the date on which such property is conveyed to a person other than Declarant and shall be due and payable in such manner and on such schedule as the Board of Directors may provide. Annual Assessments, Special Assessments and Emergency Special Assessments shall be adjusted for such property according to the number of months then remaining in the then fiscal year of the Association and the number of days then remaining in the month in which such property is first conveyed. Annual Assessments, Special Assessments and Emergency Special Assessments for properties in portions of

the Additional Property hereafter submitted to the terms of this Declaration shall commence with respect to each such property on the later of (i) the day on which such property is conveyed to a person other than Declarant, or (ii) the day the Supplemental Declaration so submitting such properties is filed in the Public Records of Flagler County, Florida,, and Annual Assessments, Special Assessments and Emergency Special Assessments for each such property 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.

11.11.1 Working Capital Collected At Closing. Each Owner of a property subject to this Declaration, other than Declarant, may be obligated to pay to the Association a sum equal to two (2) months of the Annual Assessment for working capital, which cost, when paid, can be recovered from the grantee of an Owner upon conveyance of said property by the Owner. Such sums are and shall remain separate and distinct from Annual Assessments, shall not be considered advance payments of Annual Assessments and shall not be returned to the Owner by the Association under any circumstance, including, without limitation, the sale of the Owner's Lot or Dwelling. Each such Owner's share of working capital, as aforesaid, shall be collected from such Owner upon his purchase of property subject to this Declaration, and must be transferred to the Association at the time of closing the conveyance from the Declarant to the Owner.

ARTICLE 12. RULE MAKING

12.1 Rules and Regulations. Subject to the provisions hereof, the Board of Directors may establish reasonable rules and regulations concerning the use of Lots, Dwellings, Neighborhood Areas, and the Common Areas, and facilities located thereon, including, without limitation, the Recreational Amenities. In particular but without limitation, the Board of Directors may promulgate from time to time rules and regulations which shall govern activities which may, in the judgment of the Board of Directors, be environmentally hazardous, such as application of fertilizers, pesticides, and other chemicals. Copies of such rules and regulations and amendments thereto shall be furnished by the Association to all Owners prior to the effective date of such rules and regulations and amendments thereto. Such rules and regulations shall be binding upon the Owners, their families, Tenants, guests, invitees, servants, and agents, until and unless any such rule or regulation be specifically overruled, cancelled, or modified by the Board of Directors or in a regular or special meeting of the Association by the vote of the Owners, in person or by proxy, holding a majority of the votes cast, provided that in the event of such vote, such action must also be approved by Declarant, for so long as Declarant has the right to appoint or remove any member or members of the Board of Directors or any officer or officers of the Association pursuant to Sections 10.1 and 13.1 hereof.

12.2 Authority and Enforcement. Subject to the provisions of Section 12.3 hereof, upon the violation of this Declaration, the By-Laws, or any rules and regulations duly adopted hereunder, including the failure to timely pay any Assessments or Recreational Charges, the Board shall have the power (i) to impose reasonable monetary fines (not exceeding Fifty and No/100 Dollars (\$50.00) per violation except in the case of a failure to timely pay Assessments or Recreational Charges) which shall constitute an equitable charge and a continuing lien upon the Lot or Dwelling, the Owners, occupants, or guests of which are guilty of such violation, (ii) to suspend an Owner's right (and the right of such Owner's family, guests, and Tenants and of the co-Owners of such Owner and their respective families, guests, and Tenants) to use any of the Common Areas and Recreational Amenities, or (iii) to impose all or any combination of these sanctions. An Owner shall be subject to the foregoing sanctions in the event of such a violation by such Owner, his family, guests, or Tenants or by his co-Owners or the family, guests, or Tenants of his co-Owners. Notwithstanding anything herein, however, an Owner's access to its property over the private roads and streets constituting Common

Areas will not be terminated hereunder. Any suspension of rights hereunder may be for the duration of the infraction and for any additional period thereafter, not to exceed thirty (30) days.

12.3 Procedure. Except with respect to the failure of an Owner to pay Assessments or Recreational Charges, the Board shall not impose a fine, or infringe upon or suspend any other rights of an Owner or other occupant of the Development for violations of the Declaration, By-Laws, or any rules and regulations of the Association, unless and until the following procedure is followed:

12.3.1 Demand to Cease and Desist. Written demand to cease and desist from an alleged violation shall be served upon the Owner responsible for such violation specifying the following:

- (a) The alleged violation;
- (b) The action required to abate the violation; and

(c) A time period of not less than ten (10) days during which the violation may be abated without further sanction, if such violation is a continuing one, or if the violation is not a continuing one, a statement that any further violation of the same provision of this Declaration, the By-Laws, or of the rules and regulations of the Association may result in the imposition of sanctions after notice and hearing.

12.3.2 Notice of Hearing. For any violation other than failure to timely pay Assessments or Recreational Charges, within twelve (12) months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty, or if the same violation subsequently occurs, the Board shall serve such Owner with written notice, in accordance with Section 13.15 of a hearing to be held by three Members of the Association appointed by the Board, which three Members shall not be officers, directors or employees of the Association, or the spouse, parent, child, brother or sister of such officer, director or employee (the "Hearing Committee"). The notice shall contain:

- (a) The nature of the alleged violation;
- (b) The time and place of the hearing, which time shall be not less than fourteen (14) days from the giving of the notice;
- (c) An invitation to attend the hearing and produce any statement, evidence, and witnesses on his behalf; and
- (d) The proposed sanction to be imposed.

12.3.3 Hearing. The hearing shall be held by the Hearing Committee pursuant to the notice and shall afford the alleged violator a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and matter of delivery is entered by the officer, director, or other individual who delivered such notice. The notice requirement shall be deemed satisfied if an alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction imposed, if any. No suspension or fine shall be imposed unless approved by a majority of the Hearing Committee.

ARTICLE 13. GENERAL PROVISIONS

13.1 Control of Declarant. NOTWITHSTANDING ANY OTHER LANGUAGE OR PROVISION TO THE CONTRARY IN THIS DECLARATION, IN THE ARTICLES OF INCORPORATION, OR IN THE BY-LAWS OF THE ASSOCIATION, Declarant hereby retains the right to appoint and remove any member or members of the Board of Directors of the Association and any officer or officers of the Association as provided by and for the term set forth in Section 10.1 hereof. Every grantee of any interest in the Development, by acceptance of a deed or other conveyance of such interest agrees that Declarant shall have the authority to appoint and remove directors and officers of the Association in accordance with the foregoing provisions of this Section 13.1 and the provisions of Section 10.1. The provisions of this Section 13.1 are supplemental to, and not in substitution of the rights retained by Declarant pursuant to this Declaration.

13.1.1 Voting Agreement and Proxy. By acceptance of a deed or other conveyance of an interest, all Members do hereby grant, and if further required, do agree to vote in a manner to provide to Declarant all voting rights and other corporate powers specifically reserved to and designated for Declarant under this Declaration.

IN CONNECTION WITH THIS VOTING AGREEMENT, EACH MEMBER APPOINTS DECLARANT AS PROXY FOR SUCH MEMBER WITH FULL POWER OF SUBSTITUTION TO VOTE FOR THE MEMBER ON ALL SUCH MATTERS ON WHICH THE MEMBER MAY BE ENTITLED TO VOTE, AND WITH RESPECT TO WHICH THERE IS A RESERVATION OR DESIGNATION OF VOTING RIGHTS IN DECLARANT UNDER THIS DECLARATION, AND WITH ALL POWERS WHICH THE MEMBER WOULD POSSESS IF PERSONALLY PRESENT AT ANY MEETING OF MEMBERS. SUCH APPOINTMENT SHALL BE, UPON ACCEPTANCE OF A DEED OR OTHER CONVEYANCE BY THE MEMBER AND WITHOUT THE NECESSITY OF FURTHER ACTION BY THE DECLARANT OR THE MEMBER, A POWER COUPLED WITH AN INTEREST AND SHALL BE IRREVOCABLE.

Such appointment shall be effective as of the date on which a deed or other conveyance of an interest to the Member is filed in the Public Records of Flagler County, Florida,. This irrevocable proxy shall automatically terminate on the date Declarant's voting rights as a Type E Member terminate. The within voting agreement and proxy are in addition to, and not in substitution of, all rights of Declarant herein provided, which shall run with the Property.

13.1.2 Creation of New Board. Upon the expiration of the period of Declarant's right to appoint and remove directors and officers of the Association pursuant to the provisions of Section 10.1 and this Section 13.1, such right shall pass to the Owners, including Declarant if Declarant then owns one or more properties subject to this Declaration, and a special meeting of the Association shall be called within a reasonable time thereafter. At such special meeting the Owners shall elect a new Board of Directors which shall undertake the responsibilities of the Board of Directors, and Declarant shall deliver all books, accounts, and records, if any, which Declarant has kept on behalf of the Association and any agreements or contracts executed by or on behalf of the Association during such period and which Declarant has in its possession.

13.2 Amendments by Declarant. During any period in which Declarant retains the right to appoint and remove any directors and officers of the Association as set forth in Sections 10.1 and 13.1, Declarant may amend this Declaration by an instrument in writing filed in the Public Records of Flagler

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County, Florida, without the approval of any Owner or Mortgagee; provided, however, that, with the exception of the addition of any portion of the Additional Property to the terms of this Declaration, (i) in the event that such amendment materially and adversely alters or changes any Owner's right to the use and enjoyment of his Lot, Dwelling, Neighborhood Area, or the Common Areas as set forth in this Declaration or adversely affects the title to any Lot, Dwelling, or Neighborhood Area, such amendment shall be valid only upon the written consent thereto by a majority in number of the then existing Owners affected thereby; (ii) in the event that such amendment would materially and adversely affect the security title and interest of any Mortgagee, such amendment shall be valid only upon the written consent thereto of all such Mortgagees so affected; and (iii) in the event that such amendment also is an amendment to the By-Laws, the amendment will be adopted pursuant to the applicable procedures of Sections 617.301 - 617.312, Florida Statutes and said By-Laws. Notwithstanding the foregoing to the contrary, the expiration or termination of the right of Declarant to amend and remove any directors and officers of the Association shall not terminate Declarant's right to amend the Declaration for the purpose of submitting the Additional Property or any portion thereof to the provisions of this Declaration as provided in Section 2.2 hereof. Any amendment made pursuant to this Section 13.2 shall be certified by Declarant as having been duly approved by Declarant, and by such Owners and Mortgagees if required, and shall be effective only upon it 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 of Dwelling, agrees to be bound by such amendments as are permitted by this Section 13.2 and further agrees that, if requested to do so by Declarant, such Owner will consent to the amendment of this Declaration or any other instruments relating to the Development (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 properties subject to this Declaration, (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 properties subject to this Declaration, or (d) if any such amendment is necessary to enable any governmental agency or reputable private insurance company to insure Mortgages on the properties or other improvements subject to this Declaration.

13.3 Amendments by Association. Amendments to this Declaration, other than those authorized by Section 13.2 hereof shall be proposed and adopted in the following manner:

(a) Notice of the subject matter of the proposed amendment shall be included in the notice of the meeting of the Association at which such proposed amendment is to be considered and shall be delivered to each Member of the Association.

(b) At such meeting, a resolution adopting a proposed amendment may be proposed by either the Board of Directors or by Members of the Association. Such amendment must be approved by the affirmative vote of Members present, in person or by proxy, entitled to vote and holding at least two-thirds (2/3) of the total votes in the Association; provided, however, (i) that any amendment which materially and adversely affects the security, title and interest of any Mortgagee must be approved by such Mortgagee; (ii) during any period in which Declarant has the right to appoint or to remove any member or members of the Board of Directors or any officer or officers of the Association pursuant to Sections 10.1 and 13.1, such amendment must be approved by Declarant; and (iii) in the event that such amendment also is an

amendment to the By-Laws, the amendment will be adopted pursuant to the applicable procedures of Sections 617.301 - 617.312, Florida Statutes and the By-Laws.

(c) The agreement of the required percentage of the Owners and, where required, Declarant and any Mortgagee, to any amendment of this Declaration shall be evidenced by their execution of such amendment, or, in the alternative, the sworn statement of the President of the Association attached to or incorporated in the amendment executed by the Association, which sworn statement shall state unequivocally that the agreement of the required parties was lawfully obtained. Any such amendment of this Declaration shall become effective only when filed in the Public Records of Flagler County, Florida, or at such later date as may be specified in the amendment itself.

Anything contained in this Section 13.3 to the contrary notwithstanding, no amendment under this Declaration shall be made, or any vote therefor effective, if the result or effect thereof would have a material adverse effect upon Declarant without the prior written consent of the Declarant, including, but not limited to, any matter set forth in Sections 2.2.1, 2.3, 2.4, 2.5, 2.6, 4.19, 4.24, 4.26, 4.27, 4.28, 4.29, 5.3.3, 5.4, 5.5, 5.6, 5.7, 5.8, 5.10, 5.12, 5.13, 5.14, 5.15, 6.1, 6.2, 7.2.2, 10.5, 11.7, 13.8, 13.9, 13.14, 13.15.

13.4 Enforcement. Each Owner shall comply strictly with the By-Laws and the published rules and regulations of the Association adopted pursuant to this Declaration, as either of the same may be lawfully amended from time to time, and with the covenants, conditions, and restrictions set forth in this Declaration and in the deed or other instrument of conveyance to his Lot or Dwelling, if any. Failure to comply with any of the same shall be grounds for imposing fines, for suspending rights of use in and to the Recreational Amenities, or for instituting an action to recover sums due, for damages, and/or for injunctive relief, such actions to be maintainable by Declarant, the Board of Directors on behalf of the Association, or, in a proper case, by an aggrieved Owner. Should Declarant or the Association employ legal counsel to enforce any of the foregoing, all costs incurred in such enforcement, including court costs and reasonable attorneys' fees, shall be paid by the prevailing party. Inasmuch as the enforcement of the provisions of this Declaration, the By-Laws, and the rules and regulations of the Association are essential for the effectuation of the general plan of development contemplated hereby and for the protection of present and future Owners, it is hereby declared that any breach thereof may not adequately be compensated by recovery of damages, and that Declarant, the Association, or any aggrieved Owner, in addition to all other remedies, may require and shall be entitled to the remedy of injunction to restrain any such violation or breach or any threatened violation or breach. No delay, failure, or omission on the part of Declarant, the Association, or any aggrieved Owner in exercising any right, power, or remedy thereafter as to the same violation or breach, or as to a violation or breach occurring prior or subsequent thereto, shall bar or affect its enforcement. No right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against Declarant or the Association for or on account of any failure to bring any action on account of any violation or breach, of the provisions of this Declaration, the By-Laws, or any rules and regulations of the Association by any person, however long continued.

13.5 Duration. The provisions of this Declaration shall run with and bind title to the Property, shall be binding upon and inure to the benefit of all Owners and Mortgagees and their respective heirs, executors, legal representatives, successors, and assigns, and shall be and remain in effect for a period of thirty (30) years from and after the date this Declaration is filed in the Public Records of Flagler County, Florida,, provided that rights and easements which are stated herein to have a longer duration shall have such longer duration. Upon the expiration of said thirty (30) year period, this Declaration shall be automatically renewed for successive ten (10) year periods. The number of ten (10) year renewal periods shall be unlimited, with this Declaration being automatically renewed and extended upon the expiration of each ten (10) year renewal

period for an additional ten (10) year period; provided, however, that there shall be no renewal or extension of this Declaration, if, during the last year of an initial thirty (30) year period or the last year of any ten (10) year renewal period, seventy-five percent (75%) of votes of the Members present, in person or by proxy, and entitled to vote at a duly called meeting of the Members, are cast in favor of terminating this Declaration at the end of the then current term. In the event that the Association votes to terminate this Declaration, an instrument evidencing such termination shall be filed in the Public Records of Flagler County, Florida,, such instrument to contain a certificate wherein the President of the Association swears that such termination was duly adopted by the requisite number of votes. Every purchaser or grantee of any interest in any Property, by acceptance of a deed or other conveyance therefor, thereby agrees that the provisions of this Declaration shall run with and bind title to the Property as provided hereby.

13.6 Termination of Association. In the event that this Declaration be declared to be void, invalid, illegal, or unenforceable in its entirety, or in such a significant manner that the Association is not able to function substantially as contemplated by the terms hereof, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, and such adjudication occurs within ten (10) years of the date of recording this Declaration, all Common Area belonging to the Association at the time of such adjudication shall revert to the Declarant, and the Declarant shall own and operate said Common Areas as Trustee for use and benefit of Owners within the Property as set forth below. If said adjudication shall occur on a date more than ten (10) years after the date of recording of this Declaration, or if the Members of the Association should vote not to renew and extend this Declaration as provided for in Section 13.5, all Common Areas owned by the Association at such time shall be transferred to a properly appointed Trustee, which Trustee shall own and operate said Common Areas for the use and benefit of Owners within the Property as set forth below:

(a) Each lot, parcel or tract of land located within the Property shall be subject to an Annual Assessment which shall be paid by the Owner thereof to the Declarant or Trustee, whichever becomes the successor in title to the Association. The amount of such Annual Assessment and its due date shall be determined solely by the Declarant or the Trustee, as the case may be, but the amount of such Annual Assessment on any particular lot, parcel or tract of land shall not exceed the amount actually assessed against that lot, parcel or tract of land in the last year that Assessments were levied by the Association, subject to the adjustment set forth in subparagraph (b) immediately below.

(b) The rate of the Annual Assessment which may be charged by the Declarant or Trustee hereunder on any particular lot or parcel may be automatically increased each year by either five (5%) percent or the percentage increase between the first month and the last month of the Annual Assessment period in the CPI-U issued by the U.S. Bureau of Labor Statistics in its monthly report, whichever of these two percentage figures is larger. The actual amount of such increase in the regular Annual Assessment on a parcel shall equal the regular Annual Assessment on such lot or parcel for the previous year multiplied by the larger of the two percentage factors set forth above. If the CPI-U is discontinued, then there shall be used the most similar index published by the United States Government that may be procured indicating changes in the cost of living.

(c) Any past due Annual Assessment together with interest thereon at the greater of fifteen (15%) percent or the maximum annual rate permitted by law from the due date and all costs of collection including reasonable attorney's fees shall be a personal obligation of the Owner at the time that Annual Assessment become past due, and it shall also constitute and become a charge and continuing lien on

the lot or parcel of land and all improvements thereon, against which the Assessment has been made, in the hands of the then Owner, his heirs, devisees, personal representatives and assigns.

(d) The Declarant, or the Trustee, as the case may be, shall be required to use the funds collected as Annual Assessments for the operation, maintenance, repair and upkeep of the Declarant or Trustee may charge as part of the cost of such functions the reasonable value of its services in carrying out the duties herein provided. Neither the Declarant nor the Trustee shall have the obligations to provide for operation, maintenance, repair and up-keep of the Common Areas once the funds provided by the Annual Assessment have been exhausted.

(e) The Declarant shall have the right to convey title to the Common Areas and to assign its rights and duties hereunder, provided that the transferee accepts such properties subject to the limitations and uses imposed hereby and affirmatively acknowledges its acceptance of the duties imposed hereby.

(f) The Trustee shall have the power to dispose of the Common Areas (subject to the limitations of Article 3), free and clear of the limitations imposed hereby; provided, however, that such disposition shall first be approved in writing by fifty-one (51%) percent of the Owners of Property within the Property or in the alternative shall be found, in the exercise of reasonable business judgment, to be in the best interest of the Owners of property within the Property. The proceeds of such a sale shall first be used for the payment of any debts or obligations constituting a lien on the Common Areas, then for the payment of any obligations incurred by the Trustee in the operation, maintenance, repair and upkeep of such Property, then for the payment of any obligations distributed among the Owners of property within the Development, exclusive of the Trustees, in a proportion equal to the portion that the Maximum Annual Assessment on property owned by a particular Owner bears to the total Maximum Annual Assessment for all property located within the Property.

13.7 HUD/FHA/VA Approval Rights. Notwithstanding anything in this Declaration to the contrary, so long as Declarant retains the right to appoint and remove any directors and officers of the Association as set forth in Sections 10.1 and 13.1, if the Declarant has requested, applied and submitted documents for approval from the United States Department of housing and Urban Development, Federal Housing Administrations or Veterans Administration, individually or in some combination thereof, for their making, insuring or purchasing loans on Dwellings in the Property, and if such approval has been granted, then to the extent that said agencies require approval or consent by it or them to annexation of Additional Property, any merger or consolidation involving the Association, the placing of any mortgage lien on the Common Areas, dedication to the public of any Common Areas, any amendment of this Declaration, or dissolution of the Association, by any one or more of said agencies as a condition of making, insuring or purchasing loans on Dwellings in the Property, if any such loan has been approved, insured, or purchased by the applicable agency at the time of the proposed annexation, merger, consolidation, mortgaging, dedication, amendment or dissolution, then the required consent or approval shall be obtained.

13.8 Interpretation. In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of Declarant or the Board of Directors will best effect the intent of the general plan of development. The provisions hereof shall be liberally interpreted and, if necessary, they shall be so extended or enlarged by implication as to make them fully effective. The provisions of this Declaration shall be given full force and effect notwithstanding the existence of any zoning ordinance or building codes which are less restrictive. The effective date of this

Declaration shall be the date of its filing in the Public Records of Flagler County, Florida. The captions of each Article and Section hereof as to the contents of each Article and Section are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer. This Declaration shall be construed under and in accordance with the laws of the State of Florida.

13.9 No Affirmative Obligation Unless Stated. ANY RESERVATION OR RIGHT OF THE DECLARANT WHICH IS STATED IN OR IMPLIED FROM THESE COVENANTS SHALL NOT GIVE RISE TO ANY AFFIRMATIVE OBLIGATION OR DUTY ON THE PART OF THE DECLARANT UNLESS EXPRESSLY STATED IN THIS DECLARATION.

13.10 No Implied Liabilities or Duties. ANY RULES OR REGULATIONS ESTABLISHED BY THE DECLARANT PURSUANT TO THESE COVENANTS SHALL NOT EXPRESSLY OR IMPLIEDLY CREATE ANY DUTY OF CARE TO ANY PROPERTY OWNER OR OTHER PERSON OR PARTY.

13.11 Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or other entities or to individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

13.12 Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

13.13 Rights of Third Parties. This Declaration shall be filed in the Public Records of Flagler County, Florida, for the benefit of Declarant, the Owners, and their Mortgagees as herein provided, and by such recording, no adjoining property owner or third party shall have any right, title or interest whatsoever in the Development, except as provided herein, or in the operation or continuation thereof or in the enforcement of any of the provisions hereof, and, subject to the rights of Declarant and Mortgagees as herein provided, the Owners shall have the right to extend, modify, amend, or otherwise change the provisions of this Declaration without the consent, permission, or approval of any adjoining owner or third party.

13.14 Notice of Sale, Lease, or Mortgage. In the event an Owner sells, leases, mortgages, or otherwise disposes of any Lot or Dwelling, the Owner must promptly furnish to the Association in writing the name and address of such purchaser, lessee, mortgagee, or transferee.

13.15 No Trespass. Whenever the Association, Declarant, the Architectural Review Board, and their respective successors, assigns, agents, or employees are permitted by this Declaration to enter upon or correct, repair, clean, maintain, preserve, or do any other action within any portion of the Development, the entering thereon and the taking of such action shall not deem to be trespass.

13.16 Notices. Notices required hereunder shall be in writing and shall be delivered by hand or sent by United States Mail, postage prepaid. All notices to Owners shall be delivered or sent to such addresses, as have been designated in writing to the Association, or if no address has been so designated, at the addresses of

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such Owners' respective Lots or Dwellings. All notices to the Association shall be delivered or sent in care of Declarant to Declarant's main office, 3 Waterside Parkway, Palm Coast, Florida 32137, or to such other address as the Association may from time to time notify the Owners. All notices to Declarant shall be delivered or sent to Declarant's main office, 3 Waterside Parkway, Palm Coast, Florida 32137, or to such other address as Declarant may from time to time notify the Association. Notices to Mortgagees shall be delivered or sent to such addresses as such Mortgagees specify in writing to the Association. Notices to any other person or persons entitled to same hereunder shall be delivered or sent to such address or addresses as such person or persons specify, from time to time, in writing to the sender, or, in the absence thereof, to such address or addresses as shall be, in the exercise of reasonable judgment by the sender, reasonably expected to be received by such person or persons.

IN WITNESS WHEREOF, the duly authorized officer of the undersigned Declarant have executed this Declaration this 3RD day of February, 1999.

WITNESSES:

"DECLARANT"

GRAND HAVEN PALM COAST, INC.,
a Florida corporation

By:

Print Name: Jim Cullis

Its: Vice President
(Corporate Seal)

Melissa Clingerman

Print Name: Melissa Clingerman

Jan Bair

Print Name: Jan Bair

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STATE OF FLORIDA
COUNTY OF FLAGLER

The foregoing instrument was acknowledged before me this 3RD day of February, 1999 by Jim Cullis, as Vice President of GRAND HAVEN/PALM COAST, INC., a Florida corporation, on behalf of the corporation. He is personally known to me.

Catherine A Brown
(Signature of Notary Public)

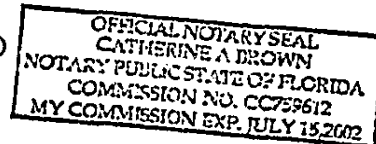
(Typed name of Notary Public)

Notary Public, State of Florida

Commission No. _____

My commission expires: _____

(Notary Seal)



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ASSOCIATION ACKNOWLEDGMENT

The undersigned Officers of Marsh Crossing Homeowners' Association, Inc., in behalf of itself and its existing and future Members, do hereby acknowledge the foregoing Covenants, Conditions And Restrictions For Marsh Crossing, consenting to all the terms and conditions thereof and agreeing to be bound thereby.

MARSH CROSSING HOMEOWNERS'
ASSOCIATION, INC., a Florida not-for-profit
corporation

Melissa Clingerman

Print Name: Melissa Clingerman

Jan Bair

Print Name: Jan Bair

By: [Signature]

Print Name: Jim Cullis

Its: President

(Corporate Seal)

STATE OF FLORIDA
COUNTY OF FLAGLER

The foregoing instrument was acknowledged before me this 3RD day of February, 1999,
by Jim Cullis, as President of Marsh Crossing Homeowners' Association, Inc.,
a Florida not-for-profit corporation, on behalf of the corporation. He/she is personally known to me.

Catherine A Brown
(Signature of Notary Public)

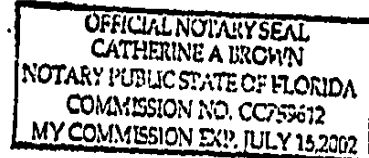
(Typed name of Notary Public)

Notary Public, State of Florida

Commission No. _____

My commission expires: _____

(Notary Seal)



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EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

All of the property described in the Plat recorded in Plat Book 31, Pages 58 through 60 inclusive, of the Public Records of Flagler County, Florida.

FCC RD

DOC NO: 99002921
OFF REC: 643

DATE: 2/10/1999
PAGE: 448

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EXHIBIT "B"

**ARTICLES OF INCORPORATION
OF
MARSH CROSSING HOMEOWNERS' ASSOCIATION, INC.**

SEE ATTACHED

FCC RD

ARTICLES OF INCORPORATION
OF
MARSH CROSSING HOMEOWNERS' ASSOCIATION, INC.

In compliance with the requirements of Florida Statutes, Chapter 617, the undersigned incorporator has executed, adopted and caused to be delivered for filing these Articles of Incorporation for the purpose of forming a corporation not for profit and does hereby certify:

ARTICLE I

NAME OF CORPORATION

The name of the corporation is MARSH CROSSING HOMEOWNERS' ASSOCIATION, INC. (hereinafter called the "Association").

ARTICLE II

PRINCIPAL OFFICE OF THE ASSOCIATION

The principal place of business and the mailing address of the Association is located at 3 Waterside Parkway, Palm Coast, Florida 32137.

ARTICLE III

REGISTERED OFFICE AND REGISTERED AGENT

The street address of the initial registered office of the Association is 3 Waterside Parkway, Palm Coast, Florida 32137, and the name of the initial registered agent at that address is Jim Cullis.

ARTICLE IV

DEFINITIONS

Unless otherwise provided herein to the contrary, all terms and words utilized herein shall be as defined in that certain Declaration of Covenants, Conditions and Restrictions for MARSH CROSSING HOMEOWNERS' ASSOCIATION, INC., Palm Coast, Flagler County, Florida, to be recorded in the Public Records of Flagler County, Florida, as it may from time to time be amended as provided therein (hereinafter called the "Declaration"), said Declaration being incorporated herein as if set forth at length.

ARTICLE V

PURPOSE AND POWERS OF THE ASSOCIATION

This Association does not contemplate pecuniary gain or profit, and has been organized for the maintenance, preservation and architectural control of the development on that certain property located in Flagler County, Florida, and more particularly described on Exhibit "A" attached hereto and incorporated herein. The Association has been organized for the purposes set forth in the Declaration including, without limitation, the following:

1. to acquire (by gift, purchase or otherwise), own, hold, improve, building upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association.

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Without limiting the foregoing, the Association may own, improve, build, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of the Common Areas and Areas of Common Responsibility, including, but not limited to, Recreational Amenities, Surface Water Management System, parking areas, buildings, structures and personal property incident thereto, subject to the terms, conditions and restrictions set forth in the Declaration;

2. to fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;
3. to borrow money and mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the terms, conditions and restrictions set forth in the Declaration;
4. to participate in mergers and consolidations with other not-for-profit corporations organized for the same purposes or annex additional property and Common Area;
5. to enforce any and all covenants and agreements pursuant to the Declaration; and
6. to pay taxes and insurance, if any, on the Common Areas within the ownership or control of the Association.

The Association shall exercise all of the powers and privileges and perform all of the duties and obligations of the Association as set forth in the Declaration as the same may from time to time be amended under the terms hereof. The Association shall further have and exercise any and all powers, rights and privileges which a corporation organized under the Florida Not-For-Profit Corporation Act by law may now or hereafter have or exercise.

ARTICLE VI

MEMBERSHIP

Section 1. Members. Every person or entity who is a record owner of a fee or undivided interest in any Lot, Dwelling, Multi-Family Tract, Development Unit Parcel and Unsubdivided Land which is subject to the Declaration, shall be a Member of the Association. A Neighborhood Association shall not have any membership in the Association as a result of being the Owner of any property subject to the Declaration as common properties or common elements of any such association or the Owner of the Lots or Dwellings, as the case may be. The foregoing is not intended to include Mortgagees or any other persons or entities who hold an interest merely as security for the performance of an obligations, and giving of a security interest shall not terminate or otherwise affect an Owner's membership in the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot, Dwelling, Multi-Family Tract, Development Unit Parcel or Unsubdivided Land which is subject to assessment by the Association. The manner of admission to membership in the Association, together with other provisions pertaining thereto, shall be as more particularly described in the By-Laws of the Association and/or the Declaration.

Section 2. Suspension of Rights. Except for voting rights, the membership rights of any person whose interest in the Property is subject to Assessments under the Declaration whether or not he be personally obligated to pay such Assessments, may be suspended by action of the Directors during the period when the

Assessments remain unpaid, but upon payment of such Assessments, his rights and privileges shall be automatically restored. If the Directors have adopted and published rules and regulations governing the use of the Common Areas and facilities, and the personal conduct of any person thereon, as provided in the Declaration, they may, in their discretion, suspend the rights of any such person for violation of such rules and regulations as set forth therein.

Section 3. Change of Membership. Change of membership in the Association shall be established by recording in the Public Records of Flagler County, Florida, a deed or other instrument establishing a record title to a Lot or Parcel in the Property. The Owner designated by such instrument thus becomes a Member of the Association and the membership of the prior Owner is terminated. The new Owner shall notify the Association of the recording of a deed or other instrument establishing record title and shall furnish the Association a certified copy of such instrument if required by the Association.

Section 4. Membership Appurtenant to Parcel. The share of a Member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner, except as an appurtenance to the respective Parcel.

Section 5. Membership Rights Subject to Payment of Assessments. The rights of membership are subject to the payment of Assessments levied by the Association, the obligation of which Assessments is imposed against each Owner and becomes a lien upon the property or the Owner in the Development.

ARTICLE VII

MEETING OF MEMBERS: QUORUM REQUIREMENTS

At any meeting, the presence of Members representing one-third (1/3) of the votes of all Members, in person or by proxy, shall constitute a quorum for the transaction of business; provided, however, if the required quorum is not present, another meeting may be called, not earlier than sixty (60) days following the first meeting, and the required quorum at the subsequent meeting shall be the Members present, in person or by proxy, and entitled to vote. Unless otherwise provided, any reference thereafter to "votes cast" at a duly called meeting shall be construed to be subject to the quorum requirements established herein, and any other requirements for such duly called meeting which may be established by the By-Laws of the Association. This provision shall not apply when the proposed action is the amendment of the Declaration, and the quorum requirement established by Section 13.3 of the Declaration shall govern in that instance.

ARTICLE VIII

VOTING RIGHTS

The Association shall have five (5) types of voting memberships which are as follows:

TYPE A: Type A Members shall be Owners (including the Declarant) of Lots and Dwellings. A Type A Member shall be entitled to one (1) vote for each Lot or Dwelling owned.

TYPE B: Type B Member shall be the Owners (including the Declarant) of Multi-Family Tracts. No specific number of votes is reserved hereunder for Multi-Family Tracts, there being none at the date hereof. The number of votes for each Multi-Family Tract owned by an Owner shall be that number as shall be set forth in a Supplemental Declaration upon the designation of any of the Additional Property as a Multi-Family Tract.

TRACT C: Type C Members shall be the Owners of Development Unit Parcels. No specific number of votes is reserved hereunder for Development Unit Parcels, there being none at the date hereof. The number of votes for each Development Unit Parcel owned by an Owner shall be that number as shall be set forth in a Supplemental Declaration upon the designation of any of the Additional Property as a Development Unit Parcel.

TYPE D: The Type D Member shall be the Declarant or its successors and assigns as Owner of Unsubdivided Land. No specific number of votes is reserved hereunder for Unsubdivided Lands, there being none at the date hereof. The number of votes for each piece, parcel or tract constituting Unsubdivided Land, and which is not contiguous to another such piece, parcel or tract, owned by the Declarant shall be that number as shall be set forth in a Supplemental Declaration upon the designation of any of the Additional Property as an Unsubdivided Land.

TYPE E: The Type E Member shall be the Declarant or its designated assign. The Type E Member shall be entitled to one (1) vote for each vote held by Type A, B, C and D Members, plus one (1) vote, until the first of the following dates: (a) December 31, 2010; (b) the date on which Declarant's right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association pursuant to Sections 10.1 and 13.1 of the Declaration is terminated; or (c) the date the Type E Member relinquishes its voting rights as a Type E Member in a Supplemental Declaration filed in the Public Records of Flagler County, Florida. Thereafter, the Type E Member shall exercise votes only as to its Type A, B, C, and D Memberships.

Meetings of the Members shall be held and voting of the Members shall be as provided in the Declaration.

ARTICLE IX

BOARD OF DIRECTORS

The affairs of the Association shall be governed by a Board of Directors consisting of three (3), five (5), seven (7), nine (9), or eleven (11) members. Initially, the Board shall consist of three (3) members, with the number in subsequent years to be determined by the members of the Board of Directors as provided for in the Declaration and By-Laws of the Association. As provided in Sections 10.1 and 13.1 of the Declaration and notwithstanding any other provision to the contrary contained in any instruments evidencing or establishing the Development, Declarant shall have the right to appoint or remove any member or members of the Board of Directors or any officer or officers of the Association until such time as the first of the following dates occurs: (a) December 31, 2010; (b) the date on which Declarant has conveyed to Owners other than Declarant property representing ninety percent (90%) of the total number of Lots and Dwellings on all of the Property as set forth in a Supplemental Declaration; or (c) the date the Declarant surrenders the authority to appoint and remove directors and officers of the Association by an express amendment to the Declaration executed and filed in the Public Records of Flagler County, Florida, by Declarant (said date referred to herein as the "Turnover Date"). After the Turnover Date, for the election of Directors, each Member of Types A, B, C, D and E membership classes shall be entitled to as many votes as equals the number of votes he is entitled to, based on his ownership of one or more of the various classifications of property or property interests as computed by the formula set out hereinabove in Articles VIII. All votes must be cast in whole numbers and not fractions thereof. Members are divided into classes for the sole purpose of computing voting rights and shall not vote as a class.

The names and addresses of the persons who are to act in the capacity of Directors until the selection of their successors are:

<u>NAME</u>	<u>ADDRESS</u>
Jim Cullis	3 Waterside Parkway Palm Coast, Florida 32137
W. Chris Vergani	3 Waterside Parkway Palm Coast, Florida 32137
Jim Donchez	3 Waterside Parkway Palm Coast, Florida 32137

ARTICLE X

OFFICERS

The day-to-day affairs of the Association shall be managed, subject to the direction and authority of the Board of Directors, by the officers of the Association, which may include a President, Vice President, Secretary and Treasurer and such other officers as permitted by the By-Laws. The names and addresses of those persons who shall act as officers of the corporation until the Board of Directors first annual organizational meeting and until their successors are duly elected and qualified as officers pursuant to the By-Laws are as follows:

	<u>NAME</u>	<u>ADDRESS</u>
President:	Jim Cullis	3 Waterside Parkway Palm Coast, Florida 32137
Vice President:	Stuart C. Rockett	3 Waterside Parkway Palm Coast, Florida 32137
Secretary/ Treasurer:	W. Chris Vergani	3 Waterside Parkway Palm Coast, Florida 32137
Assistant Secretary:	Jim Donchez	3 Waterside Parkway Palm Coast, Florida 32137
Assistant Secretary:	William Haussmann	3 Waterside Parkway Palm Coast, Florida 32137

ARTICLE XI

DISSOLUTION

The Association may be dissolved with the assent given in writing and signed by Members representing not less than two thirds (2/3) of the votes of each class of the Members or in any other manner provided by applicable law and not inconsistent with the Articles or the By-Laws of the Association. Upon dissolution, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created in accordance with the terms and conditions of the Declaration. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes in accordance with the terms and conditions of the Declaration.

ARTICLE XII

DURATION

The corporation shall exist perpetually.

ARTICLE XIII

AMENDMENTS

Amendment of these Articles shall require the approval by the affirmative vote of Members present, in person or by proxy, entitled to vote and holding at least two-thirds (2/3) of the total votes in the Association; provided, however, (a) that any amendment which materially and adversely affects the security, title and interest of any Mortgagee must be approved by such Mortgagee, and (b) during any period in which Declarant has the right to appoint or to remove any member or members of the Board of Directors or any officer or officers of the Association pursuant to Sections 10.1 and 13.1 of the Declaration, such amendment must be approved by Declarant.

ARTICLE XIV

BY-LAWS

The By-Laws of the Association shall be initially adopted by the Board of Directors and may be altered, amended, or rescinded as provided in said By-Laws.

ARTICLES XV

INDEMNIFICATION OF OFFICERS AND DIRECTORS

Section 1. The Association shall defend, indemnify and hold harmless any person of the Association who is made a party or is threatened to be made a party to any threatened, pending, or contemplated action, suit or proceedings, whether civil, criminal, administrative, or investigative, by reason of the fact that he is or was a director, officer, committee member, employee or agent of the Association:

- (a) From and against expenses (including reasonable attorneys' fees for pretrial, trial or appellate proceedings), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with an action, suit, or proceeding (other

than one by or in the right of the Association), if he acted in good faith, and, with respect to any criminal action or proceedings, he had no reasonable cause to believe his conduct was unlawful; and

- (b) From and against expenses (including reasonable attorneys' fees for pretrial, trial or appellate proceedings) actually and reasonably incurred by him in connection with the defense or settlement of an action or suit by or in the right of the Association, if he acted in good faith.

Section 2. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith or, with respect to any criminal action or proceeding, that such person had reasonable cause to believe that his conduct was unlawful.

Section 3. Notwithstanding any other provision hereof to the contrary, no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for gross negligence or misconduct in the performance of his duty to the Association.

Section 4. Any indemnification under Section 1 of this Article (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the director or officer, committee member, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in Section 1 of this Article. Such determination shall be made (1) by the Board of Directors by a majority vote of a quorum consisting of Directors, who were not parties to such action, suit, or proceeding, or (2) if such quorum is not obtainable, or even if obtainable and a quorum of disinterested Directors so directs, by a majority vote of Members of the Association.

Section 5. Expenses incurred in defending a civil or criminal action, suit or proceeding shall be paid by the Association from time to time as incurred rather than only after the final disposition of such action, suit or proceeding. Payment of such expenses shall be authorized by the Board of Directors in each specific case only after receipt by the Association of any undertaking by or on behalf of the director or officer to repay such amounts if it shall later develop that he is not entitled to be indemnified by the Association.

Section 6. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which the Association's directors, officers, committee members, employees or agents may be entitled under the Association's By-Laws, agreement, vote of Members or disinterested directors, or otherwise, both as to actions in their official capacities and as to action in another capacity while holding such offices or positions, and shall continue as to a person who has ceased to be a director, officer, committee member, agent or employee and shall inure to the benefit of the heirs, executors and administrators of such a person.

Section 7. Notwithstanding the foregoing provisions, indemnification provided under this Articles shall not include indemnification for any action of a director, officer, committee member, agent or employee of the Association for which indemnification is deemed to be against public policy. In the event that indemnification provided under this Article is deemed to be against public policy, such an event shall not invalidate or affect any other right or indemnification herein provided.

Section 8. The Association shall have the power, but shall not be obligated, to purchase and maintain indemnification insurance to provide coverage for any liability asserted against any director, officer, committee member, agent or employee of the Association in any of his capacities as described in Section 1 of this Article, whether or not the Association would have the power to indemnify him or her under this Article.

Section 9. Any person requesting indemnification shall first look to any insurance maintained by the Association for indemnification against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement (as described above). The Association shall be obligated to indemnify such person (if entitled to indemnification by the Association) only to the extent such insurance does not indemnify such person. In the event that any expenses, judgments, funds, or amounts paid in settlement are paid pursuant to insurance maintained by such Association, the Association shall have no obligation to reimburse the insurance company.

ARTICLE XVI

INCONSISTENCY

In the event of any inconsistency between the terms and provisions contained in the Declaration and those contained in the Articles of Incorporation, the terms and provisions of the Declaration shall prevail.

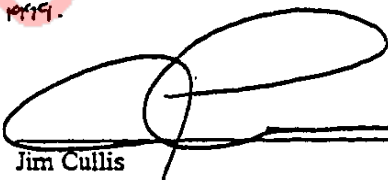
ARTICLE XVII

INCORPORATOR(S)

The name and street address of the sole incorporator to these Articles of Incorporation is as follows:

Jim Cullis
3 Waterside Parkway
Palm Coast, Florida 32137

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of Florida, the undersigned, constituting the sole incorporator of this Association, has executed these Articles of Incorporation this 3RD day of February, 1999.


Jim Cullis

STATE OF FLORIDA
COUNTY OF FLAGLER

I HEREBY CERTIFY that before the undersigned authority, personally appeared Jim Cullis, who is personally known to me or who has produced _____ as identification; has executed the foregoing Articles of Incorporation; has acknowledged the Articles of Incorporation; and has acknowledged the execution of such instrument for the uses and purposes therein expressed.

3RD WITNESS my hand and official seal at Palm Coast, in the County of Flagler, State of Florida, this day of February, 1999.

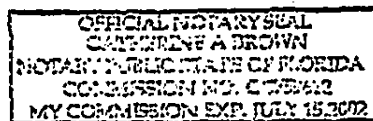
Catherine A. Brown

Print Name: _____

Notary Public, State of Florida

My Commission Expires: _____

(Notary Seal)



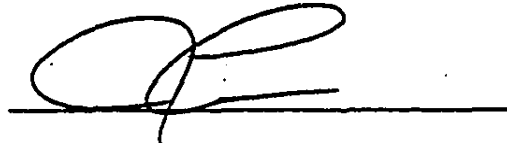
REGISTERED AGENT CERTIFICATE

In pursuance of the Florida Not-For-Profit Corporation Act, together with the provisions of Chapter 617 of the Florida Statutes applicable thereunder, the following is submitted in compliance with said statute:

That the Marsh Crossing Homeowners' Association, Inc., desiring to organize as a Florida not-for-profit corporation under the laws of the State of Florida, with its registered office, as indicated in the Articles of Incorporation, at 3 Waterside Parkway, Palm Coast, Florida 32137, and Jim Cullis, 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 not-for-profit corporation, at the place designated in this Certificate, the undersigned, hereby agrees to act in this capacity, and agrees to comply with the provision of said statutes relative to keeping open said office, and further states it is familiar with, and accepts, the obligations of said statutes applicable to registered agents of Florida not-for-profit corporations.



Print Name: Jim Cullis

Dated: February 3, 1999

FCC RD

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

DOC NO: 99002921
OFF REC: 643

DATE: 2/18/1999
PAGE: 459

For Recording Purposes Only

EXHIBIT "C"

**BY-LAWS
OF
MARSH CROSSING HOMEOWNERS' ASSOCIATION, INC.**

SEE ATTACHED

FCC RD

BY-LAWS
OF
MARSH CROSSING HOMEOWNERS' ASSOCIATION, INC.

ARTICLE I

IDENTITY AND LOCATION

These are the By-Laws of MARSH CROSSING HOMEOWNERS' ASSOCIATION, INC., herein called the "Association", a corporation not for profit organized and existing under Chapter 617, Florida Statutes, for the purpose of administering the Property, as defined in and in accordance with the terms and conditions of that certain Declaration of Covenants, Conditions and Restrictions for Marsh Crossing ("Declaration"). The principal office of the Association shall be located at 3 Waterside Parkway, Palm Coast, Florida 32137, but meetings of Members and Directors may be held at such places within the State of Florida as may be designated by the Board of Directors.

ARTICLE II

GENERAL

Section 1. Incorporation of Declaration. As supplemented herein, the regulation of the business and affairs of the Association shall be governed by certain provisions of the Declaration, as amended from time to time, which are incorporated herein by reference as if set forth verbatim.

Section 2. Fiscal Year. The fiscal year of the Association shall be the calendar year or such other period as shall subsequently be determined by the Board of Directors.

Section 3. Seal. The seal of the Association shall bear the name of the Association, the word "Florida", and the year of incorporation.

Section 4. Definitions. The definitions set out in the Declaration are incorporated herein by reference.

ARTICLE III

MEMBERSHIP

Section 1. General. Membership in the Association shall be as set forth in the Articles of Incorporation.

Section 2. Suspension of Rights. Suspension of Rights is set forth in the Articles of Incorporation.

Section 3. Change of Membership. Change of Membership is set forth in the Articles of Incorporation.

Section 4. Membership Rights Appurtenant to Parcel Ownership. Membership Rights Appurtenant to Parcel Ownership is set forth in the Articles of Incorporation.

Section 5. Membership Rights Subject to Payment of Assessments. Membership Rights Subject to Payment of Assessments is set forth in the Articles of Incorporation.

ARTICLE IV

VOTING RIGHTS

Voting rights in the Association shall be as provided in the Articles of Incorporation.

ARTICLE V

PROPERTY RIGHTS AND RIGHTS OF ENJOYMENT OF COMMON AREAS

Section 1. Use of Common Areas. Each Member shall be entitled to the use and enjoyment of the Common Areas as provided in the Declaration.

Section 2. Delegation of Rights. Except as otherwise provided in the Declaration, any Member may delegate his rights of enjoyment in the Common Areas and, with respect to an Owner of a Lot or Dwelling, Recreational Amenities, to the members of his Family who reside upon the Property or to any of his tenants or renters who lease or rent from him. Such Member shall notify the Secretary in writing of the name of any such person or persons and of the relationship of the Member to such person or person. The rights and privileges of such person or persons are subject to suspension under Article III hereof to the same extent as those of the Member.

ARTICLE VI

MEETINGS OF MEMBERS

Section 1. Membership Annual Meeting. Meetings of the Members shall be held at Marsh Crossing, Palm Coast, Flagler County, Florida, or at such other location within the State of Florida as the Board of Directors shall determine, and shall occur at least once a year. An annual meeting of the Members shall be held on a day and time to be designated in the notice of the meeting.

Section 2. Membership Special Meetings. Special Meetings of the Members for any purpose may be called at any time by the President, Vice President, Secretary or Treasurer, or by a majority of the Board of Directors, or upon written request of one-fourth (1/4) of the total vote of the Members.

Section 3. Notice. Notice of any meetings shall be given to the Members by the Secretary in accordance with the Declaration. Notice of any special meeting shall include a description of the purpose for which the special meeting is called.

Section 4. Voting Requirements. Any action which may be taken by a vote of the Members may also be taken by written consent to such action signed by all Members in person or by proxy.

Section 5. Waiver of Notice. Notice of a meeting of Members need not be given to any Member who signs a waiver of notice, in person or by proxy, either before or after the meeting. The waiver must be delivered to the Association for inclusion in the minutes or filing with the corporate records. Attendance of a Member at a meeting, in person or by proxy, shall of itself constitute waiver of notice, except when the Member attends a meeting solely for the purpose of stating his objection, at the beginning of the meeting, to the transaction of any business on the ground that the meeting is not lawfully called or convened. Objection by a Member shall be effective only if written objection to the holding of the meeting or to any specific action so taken is filed with the Secretary of the Association.

Section 6. Quorum. The quorum required for any meeting of Members shall be as set forth in the Declaration.

Section 7. Adjournment. Any annual or special meeting may be adjourned to a different date, time, or place, and any business that might have been transacted on the original date of the meeting may be transacted at the adjourned meeting. In the event of such adjournment, the date, time and place shall be announced at during the original meeting before an adjournment is taken, or a new notice shall be provided to the Members prior to the adjourned meeting pursuant the Declaration.

ARTICLE VII

PROXIES

Section 1. Voting by Proxy. Each Member entitled to vote may vote in person or by proxy at all meetings of the Association.

Section 2. Proxies. All of the provisions of this Section 2 are subject to Section 13.1.1 of the Declaration. To the extent that a provision set forth in this Section is inconsistent with Section 13.1.1 of the Declaration, the provisions of Section 13.1.1 of the Declaration shall control. All proxies shall be executed in writing by the Member or by his duly authorized attorney-in-fact and filed with the Secretary. Unless a proxy otherwise states, it shall be deemed to confer the authority to execute consents and waivers and to exercise the right to examine the books and records of the Association. A proxy may be revocable or irrevocable but shall be deemed revocable at will unless otherwise specified therein. A proxy is effective only for the specific meeting for which it was originally given, as the meeting may be adjourned and reconvened from time to time, and no proxy shall be valid after ninety (90) days from the date of the meeting for which it was originally given. Any proxy shall automatically cease upon sale by the Member of the Member's property.

ARTICLE VIII

ASSOCIATION PURPOSES AND POWERS

Section 1. Association's Purposes. The Association has been organized for the purposes set forth in the Declaration including, without limitation, the following:

- (a) to own, acquire, build, operate and maintain the Common Areas, including but not limited to Recreational Amenities, Surface Water Management System, parking areas, buildings, structures and personal property incident thereto;
- (b) to clean, clear, trim, remove weeds, limbs, and debris from, and to provide general grounds maintenance for both the Property and the Common Areas;
- (c) to fix Assessments (or charges) to be levied against the Property in the subdivision;
- (d) to enforce any and all covenants and restrictions and agreements applicable to the Property;
- (e) to pay taxes and insurance, if any, on the Common Areas; and
- (f) such other matters as set forth in the Articles of Incorporation.

Section 2. Additions to Property and Membership. Additions to the Property may be made as provided in the Declaration. Such additions, when properly made under a Supplemental Declaration, shall extend the jurisdiction, functions, duties and membership of the Association to such Additional Property.

Section 3. Mergers and Consolidations. Subject to the provisions of the Declaration, and to the extent permitted by law, the Association may participate in mergers and consolidations with other non-profit corporations organized for the same purposes, provided that any such merger or consolidation shall be approved by the Members pursuant to the Declaration.

Section 4. Mortgages; Other Indebtedness. The Association shall have the power to mortgage the Common Areas as set forth in the Declaration.

Section 5. Dedication of Property or Transfer of Function to Public Agency or Utility. The Association shall have the power to dispose of its real property or dedicate same only as authorized under the Declaration.

Section 6. Records of the Association. The Association shall maintain each of the following items, when applicable, which constitute the official records of the Association:

- (a) Copies of any plans, specifications, permits, and warranties related to improvements constructed on the common areas or other property that the Association is obligated to maintain, repair, or replace;
- (b) A copy of these By-Laws and of each amendment to thereto;
- (c) A copy of the Articles of Incorporation of the Association and of each amendment thereto;
- (d) A copy of the Declaration and each amendment thereto;
- (e) A copy of the current rules of the Association;
- (f) The minutes of all meetings of the Board of Directors and of the Members, which minutes must be retained for at least seven (7) years;
- (g) A current roster of all Members and their mailing addresses and parcel identifications;
- (h) All of the Association's insurance policies or a copy thereof, which policies must be retained for at least seven (7) years;
- (i) A current copy of all contracts to which the Association is a party, including, without limitation, any management agreement, lease, or other contract under which the Association has any obligation or responsibility (Bids received by the Association for work to be performed shall also be considered official records and must be kept for a period of one (1) year); and
- (j) The financial and accounting records of the Association, kept according to good accounting practices, which financial and accounting records shall be maintained for a period of at least seven (7) years. The financial and accounting records shall include: (1) accurate, itemized, and detailed records of all receipts and expenditures, (2) a current account and a periodic statement of the account for each Member, designating the name and current address of each Member who is obligated to pay Assessments, the due date and amount of each Assessment or other charge against the Member.

the date and amount of each payment on the account, and the balance due, (3) all tax returns, financial statements, and financial reports of the Association, and (4) any other records that identify, measure, record, or communicate financial information.

ARTICLE IX

BOARD OF DIRECTORS

Section 1. Board of Directors: Selection: Terms of Office. The affairs of the Association shall be managed by a Board of Directors consisting of three (3), five (5), seven (7), nine (9) or eleven (11) members, with the number in subsequent years to be determined by the members of the Board of Directors as provided for in the Declaration and these By-Laws. The Declarant shall have the sole right to appoint and remove any member or members of the Board of Directors of the Association pursuant to Sections 10.1 and 13.1 of the Declaration until the first of the following dates: (I) December 31, 2010; (ii) the date on which Declarant has conveyed to Owners other than Declarant property representing ninety percent; (90%) of the total number of Lots and Dwellings intended for use on all of the Property as set forth in a Supplemental Declaration; or (iii) the date the Declarant surrenders the authority to appoint and remove Directors of the Association by an express amendment to the Declaration executed and filed in the Public Records of Flagler County, Florida, by Declarant. At the first annual meeting of Members after the occurrence of the first of such events, the Members shall elect five (5) Directors, one of whom must be the President. The Members shall elect two (2) Directors for a term of one (1) year, two (2) Directors for a term of two (2) years and one (1) Director for a term of three (3) years. Notwithstanding the foregoing, in the event that the President is removed from such office pursuant to Article XI below, his term as a Director shall expire upon the effective date of such removal.

Section 2. Vacancies in the Board of Directors. Vacancies in the Board of Directors shall be filled by Declarant until Declarant has no authority to appoint Directors and thereafter by the majority of the remaining Directors, or by a sole remaining Director, and any such appointed Director shall serve for the remaining term of his predecessor. In the event that any member of the Board of Directors of the Association shall be absent from three (3) consecutive regular meetings of the Board of Directors without excuse, the Board may, by action taken at the meeting during which said third absence occurs, declare the office of said Director to be vacant.

ARTICLE X

ELECTION OF DIRECTORS

Election to the Board of Directors shall be as provided in Article IX above. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration applicable to the Property. The names receiving the largest number of votes shall be elected.

ARTICLE XI

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Board of Directors' Powers. The Board of Directors shall have power:

- (a) to call special meetings of the Members;
- (b) subject to Article XIII herein, to appoint and remove at its pleasure all officers, agents and employees of the Association, prescribe their duties, fix their compensation and require of them

such security or fidelity bond as it may deem expedient. Nothing contained in these By-Laws shall be construed to prohibit the employment of any Member, Officer or Director of the Association in any capacity whatsoever;

- (c) to establish, levy and assess, and collect the Assessments or charges;
- (d) to adopt and publish rules and regulations governing the use of the Common Areas and Recreational Amenities, and the personal conduct of the Members and the guests thereon;
- (e) to exercise for the Association all powers, duties and authority vested in or delegated to the Association, except those reserved to the Members in these By-Laws or the Declaration;
- (f) to fill vacancies on the Board of Directors pursuant to Article IX above;
- (g) to appoint an Executive Committee of three (3) Directors and delegate all or any portion of the powers of the Board of Directors to this Executive Committee, subject to the limitations on the authority of the Executive Committee imposed by law; and
- (h) to take such other action as provided in the Declaration.

Section 2. Board of Directors' Duties. It shall be the duty of the Board of Directors:

- (a) to cause to be kept a complete record of all its acts and corporate affairs;
- (b) to supervise all officers, agents and employees of the Association and to see that their duties are properly performed;
- (c) to prepare the annual budget in accordance with the Declaration;
- (d) to fix the amount of Assessments in accordance with the Declaration;
- (e) to prepare a roster of the Property and Assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Member;
- (f) to send written notice of each Assessment to each Property Owner subject thereto;
- (g) to issue upon demand by any Owner or mortgage lender a certificate setting forth whether any Assessment has been paid (which certificate shall be conclusive evidence of any Assessment therein stated to have been paid); and
- (h) to prepare or cause to be prepared an unaudited annual financial report of the Association within sixty (60) days after the close of the fiscal year, and to provide each Member with a copy of the annual financial report or written notice that a copy of the financial report is available upon request at no charge to the Member.

Section 3. Resignation. A Director of the Association may resign at any time by giving a written notice to the Board of Directors or the President of the Association. The resignation of any Director shall take effect upon delivery of the notice thereof or at such later time as shall be specified in such notice; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 4. Removal. Except as otherwise provided in the Declaration and in Article VIII herein, any Director may be removed, with or without cause, by a vote of the holders of a majority of the votes of the Members present, in person or by proxy, and entitled to vote at a special meeting of the Members called for that purpose.

Section 5. Directors' Fees. There shall be no Directors' fees paid to members of the Board of Directors, except that Directors shall be entitled to reimbursement of out-of-pocket costs authorized by the Board of Directors.

ARTICLE XII

DIRECTORS' MEETINGS

Section 1. Directors' Annual Meeting. The annual meeting of the Board of Directors shall be held at the discretion of the Board of Directors with ample notice given to each Member.

Section 2. Notice. Not less than ten (10) days' written notice of such annual meeting shall be given to each Director. Except in an emergency, notices of all meetings of the Board of Directors shall be given to all Members by (a) posting in a conspicuous place in the community at least forty-eight (48) hours in advance of a meeting, (b) written notice mailed or delivered to each Member at least seven (7) days before the meeting, or (c) by publication of notice or provision to Members of a schedule of Board meetings.

Section 3. Special Meetings. Special meetings of the Board of Directors shall be held when called by any officer of the Association or by any two (2) Directors after not less than three (3) days' notice to each Director. Except in an emergency, notices of any such special meetings of the Board of Directors shall be given to all Members by posting in a conspicuous place in the community at least forty-eight (48) hours in advance of the meeting.

Section 4. Waiver of Notice. A Director may waive notice of a meeting of the Directors before or after the date and time stated in the notice. Except as otherwise provided in this Section 4, the waiver must be in writing, signed by the Director entitled to the notice and filed with the minutes or corporate records. Attendance of a Director at any meeting shall constitute waiver of notice of such meeting, except where the Director attends for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened and does not thereafter vote for or assent to action taken at the meeting. If a meeting otherwise valid of the Board of Directors is held without notice where such is required, any action taken at such meeting shall be deemed ratified by a Director who did not attend, unless after learning of the action taken and of the impropriety of the meeting, he makes prompt objection thereto. Objection by a Director shall be effective only if written objection to the holding of the meeting or to any specific action so taken is filed with the Secretary of the Association.

Section 5. Action Upon Written Consent Without a Meeting. Action of the Board of Directors may be taken without a meeting upon the written consent signed by all members of the Board. Any such action without meeting shall be effective on the date the last Board member signs the consent or on such date as is specified in the consent. Any such action by written consent shall have the same effect as a vote taken at a meeting of the Board of Directors.

Section 6. Board Quorum. The Majority of the Board of Directors shall constitute a quorum thereof.

ARTICLE XIII

OFFICERS

Section 1. Association Officers. The Officers shall be a President, a Vice-President, a Secretary and a Treasurer. The President shall be a member of the Board of Directors; all other Officers may be, but shall not be required to be, members of the Board of Directors.

Section 2. Election of Officers. The Declarant shall have the sole right to appoint and remove any Officer of the Association pursuant to Sections 10.1 and 13.1 of the Declaration until the first of the following dates: (i) December 31, 2010; (ii) the date on which Declarant has conveyed to Owners other than Declarant property representing ninety percent (90%) of the total number of Lots and Dwellings intended for use on all of the Property as set forth in a Supplemental Declaration; or (iii) the date the Declarant surrenders the authority to appoint and remove Directors of the Association by an express amendment to the Declaration executed and filed in the Public Records of Flagler County, Florida, by Declarant. Thereafter, all Officers shall hold office at the pleasure of the Board of Directors.

Section 3. Removal of Officer. Upon an affirmative vote of a majority of the members of the Board of Directors, any Officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board called for such purpose.

Section 4. President. The President shall preside at all meetings of the Board of Directors, shall see that orders and resolutions of the Board of Directors are carried out and shall sign all notes, checks, leases, mortgages, deeds and all other written instruments.

Section 5. Vice President. The Vice President shall perform all the duties in the absence of the President.

Section 6. Secretary. The Secretary shall be the *ex officio* Secretary of the Board of Directors, shall record the votes and keep the minutes of all proceedings in a book to be kept for such purpose. The Secretary shall sign all certificates of membership and shall keep the records of the Association. The Secretary shall record in a book kept for that purpose the names of all Members of the Association, together with their addresses as registered by such Members.

Section 7. Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; provided, however, that a resolution of the Board of Directors shall not be necessary for disbursements made in the ordinary course of business. The Treasurer shall sign all checks and notes of the Association, provided that such notes and checks shall also be signed by the President or Vice President.

ARTICLE XIV

LIABILITY AND INDEMNIFICATION

Section 1. Liability of Board Member. No Board Member or Officer of the Association shall be liable to any Owner and/or Member for any decision, action or omission made or performed by such Board Member or Officer in the course of his duties unless such Board Member or Officer acted in bad faith or in reckless disregard of the rights of any person or of the terms of the Declaration or these By-Laws.

Section 2. Indemnification. To the fullest extent allowed by Section 617.0831, Florida Statutes, as same may be amended, the Association shall indemnify the Directors, Officers, Employees, Agents and other persons specifically designated from time to time by the Board of Directors whom it may indemnify pursuant to law. In this connection, the Association is authorized to take out such insurance as it may deem necessary or desirable consistent with such indemnification.

ARTICLE XV

INSURANCE

The Board of Directors or its duly authorized agent shall obtain hazard insurance for its improvements and Common Area and a broad form public liability policy covering all common area and all damage or injury caused by negligence of the Association or any of its agents as more fully described in the Declaration.

ARTICLE XVI

AMENDMENTS

These By-Laws may be amended or repealed and new By-Laws adopted by the Directors so long as Declarant has the authority to appoint the Directors and thereafter by a two-thirds (2/3) vote of the Members present, in person or by proxy, and entitled to vote at a regular or special meeting of the Members; provided that any matter which is in fact governed by the Declaration may not be amended except as provided in the Declaration.

ARTICLE XVII

GENERAL

Section 1. Conflicts. It is intended that the provisions of the Declaration which apply to the governance of the Association, as supplemented by the provisions in these By-Laws which are not contained in the Declaration, shall operate as the By-Laws of the Association. In the case of any conflict between such provisions set forth in the Declaration and these By-Laws, the Declaration shall control.

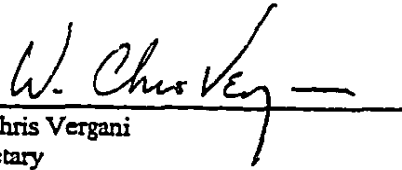
Section 2. Waiver. No provision of these By-Laws or any regulation promulgated by the Board of Directors pursuant hereto shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, regardless of the number of violations or breaches which may have occurred.

Section 3. Severability. The provisions of these By-Laws are severable, and the invalidity of one or more provisions hereof shall not be deemed to impair or affect in any manner the enforceability or effect of the remainder.


Section 4. Captions. Captions are inserted herein only as a matter of convenience and for reference and in no way define, limit, or describe the scope of these By-Laws or the intent of any provision.

Section 5. Gender and Number. All nouns and pronouns used herein shall be deemed to include the masculine, the feminine, and the neuter, and the singular shall include the plural and the plural shall include the singular whenever the context requires or permits.

Section 6. Roberts Rules. All meetings of the membership of the Board of Directors shall be conducted in accordance with *Roberts Rules of Orders Revised*.


W. Chris Vergani
Secretary

APPROVED.


Jim Cullis, President
Marsh Crossing Homeowners' Association, Inc.

February 3, 1999

ORLANDO/KNOBLER/49464/1260011.DOC/12/11/98/19997.010100

Inst No: 00003172 Date: 02/11/2000
SYD CROSBY, FLAGLER County
By: *[Signature]* D.C. Time: 12:42:54
OFF REC 0683 PAGE 0959

Prepared By and Return To:

CHIUMENTO, BRAUNSTEIN & EMERY
4 Old Kings Road North, Suite B
Palm Coast, FL 32137

**FIRST AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR
MARSH CROSSING**

THIS FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (First Amendment) is made this 9th day of February, 2000, by **MARSH CROSSING HOMEOWNER'S ASSOCIATION, INC.**, a not-for-profit Florida corporation (hereinafter referred to as the "Association").

WITNESSETH:

WHEREAS, GRAND HAVEN / PALM COAST, INC., (hereinafter referred to as "Declarant") has previously executed and recorded that certain Declaration of Covenants, Conditions and Restrictions for Marsh Crossing dated February 3, 1999 and recorded in Official Records Book 643, Pages 382, Public Records of Flagler County, Florida, (the "Existing Declaration"); and

WHEREAS, the Association desires to modify and amend the Existing Declaration; and

WHEREAS, pursuant to Section 13.3 of the Existing Declaration, the First Amendment was approved by the affirmative vote of two-thirds (2/3) of the total votes in the Association; and

WHEREAS, the Amendment is also authorized pursuant to Section 13.2(i) of the Existing Declaration, as it was approved by the Declarant and a majority of the existing owners affected thereby; and

WHEREAS, any term used herein that is not defined herein but is defined in the Existing Declaration shall have the same meaning provided for in said Existing Declaration.

NOW THEREFORE, for and in consideration of the premises, the payment of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby expressly acknowledged, the Association hereby amends the Existing Declaration as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference.

2. Amendments. The Existing Declaration is amended and modified as follows:

- (a) Use of Lots and Dwellings. Section 4.9 of the Existing Declaration is hereby amended as follows. Additions are indicated by underline, deletions are indicated by ~~strikeout~~.

4.9 Use of Lots and Dwellings. Except as permitted by Section 4.19, each Lot and Dwelling shall be used for residential purposes only, and no trade or business of any kind may be carried on therein. The use of a portion of a Dwelling as an office by an Owner or this Tenant shall not be considered to be a violation of this covenant if such use does not create regular customer, client or employee traffic; provided, however, that in no event shall any Lot or Dwelling be used as the office of or storage area for any building contractor, real estate developer or real estate broker, except as may be on a temporary basis, with the express written consent of the Architectural Review Board, and in accordance with reasonable rules and regulations promulgated by the Architectural Review Board. Furthermore, the operation of the Recreational Amenities and any Golf and Country Club Property, including, without limitation, the charging and collecting of rentals, fees and charges in connection therewith, shall be expressly permitted within the Development and shall not be deemed to be a violation of the terms of this Section 4.9. ~~Lease or rental of a Dwelling for residential purposes shall also not be considered to be a violation of this covenant so long as the lease (a) is for not less than the entire Dwelling and all the improvements thereon, and (b) is otherwise in compliance with rules and regulations as may be promulgated and published from time to time by the Declarant and the Architectural Review Board. All such leases or rental agreements shall be required to be in writing, and upon request, the Owner shall provide the Declarant and Architectural Review Board with copies of such lease or rental agreement. Any renter, lessee or Tenant shall in all respects be subject to the terms and conditions of this Declaration and the rules and regulations adopted hereunder.~~

All rentals of Dwellings by Owners shall be documented by a written lease which shall set forth, among other things, the address of the Dwelling, the name(s) of the tenants, the lease commencement date and the term. A copy of the fully executed lease shall be delivered by the Owner to the

secretary of the Association within five (5) days of the full execution of such lease. No Dwelling may be used as a rooming house, hostel or hotel. The occupancy of a Dwelling for less than 30 consecutive days is strictly prohibited. No more than two (2) leases may be executed for a Dwelling during any 12 month period based on the date of commencement of the lease. Rentals of less than ninety (90) consecutive days in duration or the operation of a rooming house, hostel or hotel shall be deemed to be a commercial use for purposes of enforcement of this Declaration, and are prohibited. A Dwelling may be subleased one time during a lease period, for a period of not less than thirty (30) consecutive days. In the event that a tenant desires to extend its lease period, such extension period shall not be less than thirty (30) consecutive days. The tenants which are occupying a Dwelling pursuant to a written lease shall be permitted to use the Recreational Amenities during the lease term, provided that the tenants comply with any and all policies, rules and regulations imposed by the CDD, with respect to the Recreational Amenities. Only one family is permitted to lease a Dwelling at any particular time.

All tenants shall be subject to the terms and conditions of this Declaration, the Bylaws, the Articles of Incorporation, and the rules and regulations promulgated thereunder as though such tenant were an Owner. Each Owner agrees to cause his lessee, occupant, or persons living with such Owner or with his lessee to comply with the Declaration, Bylaws, Articles and the rules and regulations promulgated thereunder, and is responsible and liable for all violations and losses caused by such tenants or occupants, notwithstanding the fact that such occupants of the Dwelling are also fully liable for any violation of the documents and regulations. In the event that a lessee, occupant, or person living with the lessee violates a provision of the Declaration, Bylaws, Articles or rules and regulations, the Board shall have the power to bring an action or suit against the lessee to recover sums due for damages or injunctive relief, or for any other remedy available at law or equity.

(b) Maintenance of Vacant Lots. The Existing Declaration is amended to create Section 4.4.7 as follows:

4.4.7 Maintenance of Vacant Lots. Prior to the commencement of construction of a Dwelling on a Lot, the

Owner shall keep his Lot free and clear of dead material, including, without limitation, trees, fallen branches, and debris. To the extent that a lot is a cleared or grassy lot, the grassy areas shall be mowed and maintained to a height of six inches or less and shall be cleared of all weeds and unsightly vegetation. To the extent that a lot is a wooded lot, the Owner shall maintain the vegetation in the weeded areas in their natural state to a height of six inches or less. In the event that an Owner fails to maintain his Lot in accordance herewith, the Association shall provide the Owner with written notice in accordance with Section 13.15 herein of the Association's intent to provide such necessary maintenance and/or cleaning, at the sole cost and expense of such Owner, and setting forth with reasonable particularity the maintenance and/or cleaning deemed necessary. The Owner shall have fifteen (15) days to complete the same in good and workmanlike manner. In the event that the Owner fails to comply, the Association may provide any such maintenance and/or cleaning, at the sole cost and expense of such Owner, and said cost shall be added to and become a part of the Assessment to which such Owner and his property are subject and shall become a lien against such property.

3. Certification. Association hereby certifies that the Amendments set forth in paragraph 2 above have been duly authorized and approved by the Association.
4. Ratification. The Existing Declaration, as modified hereby, remains in full force and effect and is hereby ratified and affirmed.

IN WITNESS WHEREOF, the duly authorized officer of the undersigned Association has executed this First Amendment to Declaration of Covenants, Conditions and Restrictions for Marsh Crossing this 9th day of February, 2000.

WITNESSES:

Daniel B Smalley
Print Name DAVID B SMALLEY

Kim Endebrock
Print Name: KIM ENDEBROCK

MARSH CROSSING HOMEOWNER'S
ASSOCIATION, INC.,
a not-for-profit Florida corporation

By [Signature]
James T. Callis, President

STATE OF FLORIDA
COUNTY OF FLAGLER

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The foregoing instrument was acknowledged before me this 9th day of February, 2000, by James T. Cullis, as President of MARSH CROSSING HOMEOWNER'S ASSOCIATION, INC., a not-for-profit Florida corporation, on behalf of the corporation. He is personally known to me.

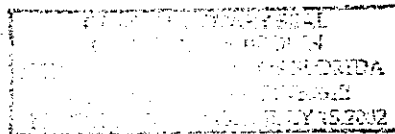
Catherine A. Brown
(Signature of Notary Public)

Catherine A. Brown
(Typed Name of Notary Public)

Notary Public, State of Florida

Commission No. CC 759612

My commission expires: 7/15/02



Prepared By and Return To:

OFF REC 0683 PAGE 0964

CHIUMENTO, BRAUNSTEIN & EMERY
4 Old Kings Road North, Suite B
Palm Coast, FL 32137

CERTIFICATE

I HEREBY CERTIFY that the attached is a true and correct copy of the First Amendment to Declaration of Covenants, Conditions and Restrictions for **MARSH CROSSING HOMEOWNER'S ASSOCIATION, INC.**

Dated this 9th day of February, 2000.



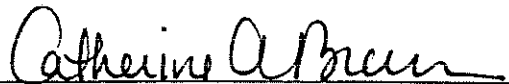
James T. Cullis
Its: President

(Corporate Seal)

**STATE OF FLORIDA
COUNTY OF FLAGLER**

I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments, James T. Cullis, as President of **MARSH CROSSING HOMEOWNER'S ASSOCIATION, INC.**, who is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid, this 9th day of February, 2000.



Print Name: Catherine A. Brown

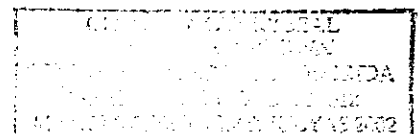
Notary Public

State of Florida at Large

My Commission Expires: 7/15/02

Commission # CC 759612

(Seal)





FLORIDA DEPARTMENT OF STATE

Katherine Harris
Secretary of State

February 8, 1999

GREENBERG TRAURIG

The Articles of Incorporation for MARSH CROSSING HOMEOWNERS' ASSOCIATION, INC. were filed on February 8, 1999 and assigned document number N99000000771. Please refer to this number whenever corresponding with this office regarding the above corporation.

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

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

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

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

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

Tracy Smith, Document Specialist
New Filing Section

Letter Number: 799A00005499

**ARTICLES OF INCORPORATION
OF
MARSH CROSSING HOMEOWNERS' ASSOCIATION, INC.**

In compliance with the requirements of Florida Statutes, Chapter 617, the undersigned incorporator has executed, adopted and caused to be delivered for filing these Articles of Incorporation for the purpose of forming a corporation not for profit and does hereby certify:

ARTICLE I

NAME OF CORPORATION

The name of the corporation is MARSH CROSSING HOMEOWNERS' ASSOCIATION, INC. (hereinafter called the "Association").

ARTICLE II

PRINCIPAL OFFICE OF THE ASSOCIATION

The principal place of business and the mailing address of the Association is located at 3 Waterside Parkway, Palm Coast, Florida 32137.

ARTICLE III

REGISTERED OFFICE AND REGISTERED AGENT

The street address of the initial registered office of the Association is 3 Waterside Parkway, Palm Coast, Florida 32137, and the name of the initial registered agent at that address is Jim Cullis.

ARTICLE IV

DEFINITIONS

Unless otherwise provided herein to the contrary, all terms and words utilized herein shall be as defined in that certain Declaration of Covenants, Conditions and Restrictions for MARSH CROSSING HOMEOWNERS' ASSOCIATION, INC., Palm Coast, Flagler County, Florida, to be recorded in the Public Records of Flagler County, Florida, as it may from time to time be amended as provided therein (hereinafter called the "Declaration"), said Declaration being incorporated herein as if set forth at length.

ARTICLE V

PURPOSE AND POWERS OF THE ASSOCIATION

This Association does not contemplate pecuniary gain or profit, and has been organized for the maintenance, preservation and architectural control of the development on that certain property located in Flagler County, Florida, and more particularly described on Exhibit "A" attached hereto and incorporated herein. The Association has been organized for the purposes set forth in the Declaration including, without limitation, the following:

1. to acquire (by gift, purchase or otherwise), own, hold, improve, building upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association.

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Without limiting the foregoing, the Association may own, improve, build, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of the Common Areas and Areas of Common Responsibility, including, but not limited to, Recreational Amenities, Surface Water Management System, parking areas, buildings, structures and personal property incident thereto, subject to the terms, conditions and restrictions set forth in the Declaration;

2. to fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;
3. to borrow money and mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the terms, conditions and restrictions set forth in the Declaration;
4. to participate in mergers and consolidations with other not-for-profit corporations organized for the same purposes or annex additional property and Common Area;
5. to enforce any and all covenants and agreements pursuant to the Declaration; and
6. to pay taxes and insurance, if any, on the Common Areas within the ownership or control of the Association.

The Association shall exercise all of the powers and privileges and perform all of the duties and obligations of the Association as set forth in the Declaration as the same may from time to time be amended under the terms hereof. The Association shall further have and exercise any and all powers, rights and privileges which a corporation organized under the Florida Not-For-Profit Corporation Act by law may now or hereafter have or exercise.

ARTICLE VI

MEMBERSHIP

Section 1. Members. Every person or entity who is a record owner of a fee or undivided fee interest in any Lot, Dwelling, Multi-Family Tract, Development Unit Parcel and Unsubdivided Land which is subject to the Declaration, shall be a Member of the Association. A Neighborhood Association shall not have any membership in the Association as a result of being the Owner of any property subject to the Declaration as common properties or common elements of any such association or the Owner of the Lots or Dwellings, as the case may be. The foregoing is not intended to include Mortgagees or any other persons or entities who hold an interest merely as security for the performance of an obligations, and giving of a security interest shall not terminate or otherwise affect an Owner's membership in the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot, Dwelling, Multi-Family Tract, Development Unit Parcel or Unsubdivided Land which is subject to assessment by the Association. The manner of admission to membership in the Association, together with other provisions pertaining thereto, shall be as more particularly described in the By-Laws of the Association and/or the Declaration.

Section 2. Suspension of Rights. Except for voting rights, the membership rights of any person whose interest in the Property is subject to Assessments under the Declaration whether or not he be personally obligated to pay such Assessments, may be suspended by action of the Directors during the period when the

Assessments remain unpaid, but upon payment of such Assessments, his rights and privileges shall be automatically restored. If the Directors have adopted and published rules and regulations governing the use of the Common Areas and facilities, and the personal conduct of any person thereon, as provided in the Declaration, they may, in their discretion, suspend the rights of any such person for violation of such rules and regulations as set forth therein.

Section 3. Change of Membership. Change of membership in the Association shall be established by recording in the Public Records of Flagler County, Florida, a deed or other instrument establishing a record title to a Lot or Parcel in the Property. The Owner designated by such instrument thus becomes a Member of the Association and the membership of the prior Owner is terminated. The new Owner shall notify the Association of the recording of a deed or other instrument establishing record title and shall furnish the Association a certified copy of such instrument if required by the Association.

Section 4. Membership Appurtenant to Parcel. The share of a Member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner, except as an appurtenance to the respective Parcel.

Section 5. Membership Rights Subject to Payment of Assessments. The rights of membership are subject to the payment of Assessments levied by the Association, the obligation of which Assessments is imposed against each Owner and becomes a lien upon the property or the Owner in the Development.

ARTICLE VII

MEETING OF MEMBERS: QUORUM REQUIREMENTS

At any meeting, the presence of Members representing one-third (1/3) of the votes of all Members, in person or by proxy, shall constitute a quorum for the transaction of business; provided, however, if the required quorum is not present, another meeting may be called, not earlier than sixty (60) days following the first meeting, and the required quorum at the subsequent meeting shall be the Members present, in person or by proxy, and entitled to vote. Unless otherwise provided, any reference thereafter to "votes cast" at a duly called meeting shall be construed to be subject to the quorum requirements established herein, and any other requirements for such duly called meeting which may be established by the By-Laws of the Association. This provision shall not apply when the proposed action is the amendment of the Declaration, and the quorum requirement established by Section 13.3 of the Declaration shall govern in that instance.

ARTICLE VIII

VOTING RIGHTS

The Association shall have five (5) types of voting memberships which are as follows:

TYPE A: Type A Members shall be Owners (including the Declarant) of Lots and Dwellings. A Type A Member shall be entitled to one (1) vote for each Lot or Dwelling owned.

TYPE B: Type B Member shall be the Owners (including the Declarant) of Multi-Family Tracts. No specific number of votes is reserved hereunder for Multi-Family Tracts, there being none at the date hereof. The number of votes for each Multi-Family Tract owned by an Owner shall be that number as shall be set forth in a Supplemental Declaration upon the designation of any of the Additional Property as a Multi-Family Tract.

TRACT C: Type C Members shall be the Owners of Development Unit Parcels. No specific number of votes is reserved hereunder for Development Unit Parcels, there being none at the date hereof. The number of votes for each Development Unit Parcel owned by an Owner shall be that number as shall be set forth in a Supplemental Declaration upon the designation of any of the Additional Property as a Development Unit Parcel.

TYPE D: The Type D Member shall be the Declarant or its successors and assigns as Owner of Unsubdivided Land. No specific number of votes is reserved hereunder for Unsubdivided Lands, there being none at the date hereof. The number of votes for each piece, parcel or tract constituting Unsubdivided Land, and which is not contiguous to another such piece, parcel or tract, owned by the Declarant shall be that number as shall be set forth in a Supplemental Declaration upon the designation of any of the Additional Property as an Unsubdivided Land.

TYPE E: The Type E Member shall the Declarant or its designated assign. The Type E Member shall be entitled to one (1) vote for each vote held by Type A, B, C and D Members, plus one (1) vote, until the first of the following dates: (a) December 31, 2010; (b) the date on which Declarant's right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association pursuant to Sections 10.1 and 13.1 of the Declaration is terminated; or (c) the date the Type E Member relinquishes its voting rights as a Type E Member in a Supplemental Declaration filed in the Public Records of Flagler County, Florida. Thereafter, the Type E Member shall exercise votes only as to its Type A, B, C, and D Memberships.

Meetings of the Members shall be held and voting of the Members shall be as provided in the Declaration.

ARTICLE IX

BOARD OF DIRECTORS

The affairs of the Association shall be governed by a Board of Directors consisting of three (3), five (5), seven (7), nine (9), or eleven (11) members. Initially, the Board shall consist of three (3) members, with the number in subsequent years to be determined by the members of the Board of Directors as provided for in the Declaration and By-Laws of the Association. As provided in Sections 10.1 and 13.1 of the Declaration and notwithstanding any other provision to the contrary contained in any instruments evidencing or establishing the Development, Declarant shall have the right to appoint or remove any member or members of the Board of Directors or any officer or officers of the Association until such time as the first of the following dates occurs: (a) December 31, 2010; (b) the date on which Declarant has conveyed to Owners other than Declarant property representing ninety percent (90%) of the total number of Lots and Dwellings on all of the Property as set forth in a Supplemental Declaration; or (c) the date the Declarant surrenders the authority to appoint and remove directors and officers of the Association by an express amendment to the Declaration executed and filed in the Public Records of Flagler County, Florida, by Declarant (said date referred to herein as the "Turnover Date"). After the Turnover Date, for the election of Directors, each Member of Types A, B, C, D and E membership classes shall be entitled to as many votes as equals the number of votes he is entitled to, based on his ownership of one or more of the various classifications of property or property interests as computed by the formula set out hereinabove in Articles VIII. All votes must be cast in whole numbers and not fractions thereof. Members are divided into classes for the sole purpose of computing voting rights and shall not vote as a class.

The names and addresses of the persons who are to act in the capacity of Directors until the selection of their successors are:

<u>NAME</u>	<u>ADDRESS</u>
Jim Cullis	3 Waterside Parkway Palm Coast, Florida 32137
W. Chris Vergani	3 Waterside Parkway Palm Coast, Florida 32137
Jim Donchez	3 Waterside Parkway Palm Coast, Florida 32137

ARTICLE X

OFFICERS

The day-to-day affairs of the Association shall be managed, subject to the direction and authority of the Board of Directors, by the officers of the Association, which may include a President, Vice President, Secretary and Treasurer and such other officers as permitted by the By-Laws. The names and addresses of those persons who shall act as officers of the corporation until the Board of Directors first annual organizational meeting and until their successors are duly elected and qualified as officers pursuant to the By-Laws are as follows:

	<u>NAME</u>	<u>ADDRESS</u>
President:	Jim Cullis	3 Waterside Parkway Palm Coast, Florida 32137
Vice President:	Stuart C. Rockett	3 Waterside Parkway Palm Coast, Florida 32137
Secretary/ Treasurer:	W. Chris Vergani	3 Waterside Parkway Palm Coast, Florida 32137
Assistant Secretary:	Jim Donchez	3 Waterside Parkway Palm Coast, Florida 32137
Assistant Secretary:	William Haussmann	3 Waterside Parkway Palm Coast, Florida 32137

ARTICLE XI

DISSOLUTION

The Association may be dissolved with the assent given in writing and signed by Members representing not less than two thirds (2/3) of the votes of each class of the Members or in any other manner provided by applicable law and not inconsistent with the Articles or the By-Laws of the Association. Upon dissolution, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created in accordance with the terms and conditions of the Declaration. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes in accordance with the terms and conditions of the Declaration.

ARTICLE XII

DURATION

The corporation shall exist perpetually.

ARTICLE XIII

AMENDMENTS

Amendment of these Articles shall require the approval by the affirmative vote of Members present, in person or by proxy, entitled to vote and holding at least two-thirds (2/3) of the total votes in the Association; provided, however, (a) that any amendment which materially and adversely affects the security, title and interest of any Mortgagee must be approved by such Mortgagee, and (b) during any period in which Declarant has the right to appoint or to remove any member or members of the Board of Directors or any officer or officers of the Association pursuant to Sections 10.1 and 13.1 of the Declaration, such amendment must be approved by Declarant.

ARTICLE XIV

BY-LAWS

The By-Laws of the Association shall be initially adopted by the Board of Directors and may be altered, amended, or rescinded as provided in said By-Laws.

ARTICLES XV

INDEMNIFICATION OF OFFICERS AND DIRECTORS

Section 1. The Association shall defend, indemnify and hold harmless any person of the Association who is made a party or is threatened to be made a party to any threatened, pending, or contemplated action, suit or proceedings, whether civil, criminal, administrative, or investigative, by reason of the fact that he is or was a director, officer, committee member, employee or agent of the Association:

- (a) From and against expenses (including reasonable attorneys' fees for pretrial, trial or appellate proceedings), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with an action, suit, or proceeding (other

than one by or in the right of the Association), if he acted in good faith, and, with respect to any criminal action or proceedings, he had no reasonable cause to believe his conduct was unlawful; and

- (b) From and against expenses (including reasonable attorneys' fees for pretrial, trial or appellate proceedings) actually and reasonably incurred by him in connection with the defense or settlement of an action or suit by or in the right of the Association, if he acted in good faith.

Section 2. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith or, with respect to any criminal action or proceeding, that such person had reasonable cause to believe that his conduct was unlawful.

Section 3. Notwithstanding any other provision hereof to the contrary, no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for gross negligence or misconduct in the performance of his duty to the Association.

Section 4. Any indemnification under Section 1 of this Article (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the director or officer, committee member, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in Section 1 of this Article. Such determination shall be made (1) by the Board of Directors by a majority vote of a quorum consisting of Directors, who were not parties to such action, suit, or proceeding, or (2) if such quorum is not obtainable, or even if obtainable and a quorum of disinterested Directors so directs, by a majority vote of Members of the Association.

Section 5. Expenses incurred in defending a civil or criminal action, suit or proceeding shall be paid by the Association from time to time as incurred rather than only after the final disposition of such action, suit or proceeding. Payment of such expenses shall be authorized by the Board of Directors in each specific case only after receipt by the Association of any undertaking by or on behalf of the director or officer to repay such amounts if it shall later develop that he is not entitled to be indemnified by the Association.

Section 6. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which the Association's directors, officers, committee members, employees or agents may be entitled under the Association's By-Laws, agreement, vote of Members or disinterested directors, or otherwise, both as to actions in their official capabilities and as to action in another capacity while holding such offices or positions, and shall continue as to a person who has ceased to be a director, officer, committee member, agent or employee and shall inure to the benefit of the heirs, executors and administrators of such a person.

Section 7. Notwithstanding the foregoing provisions, indemnification provided under this Articles shall not include indemnification for any action of a director, officer, committee member, agent or employee of the Association for which indemnification is deemed to be against public policy. In the event that indemnification provided under this Article is deemed to be against public policy, such an event shall not invalidate or affect any other right or indemnification herein provided.

Section 8. The Association shall have the power, but shall not be obligated, to purchase and maintain indemnification insurance to provide coverage for any liability asserted against any director, officer, committee member, agent or employee of the Association in any of his capacities as described in Section 1 of this Article, whether or not the Association would have the power to indemnify him or her under this Article.

Section 9. Any person requesting indemnification shall first look to any insurance maintained by the Association for indemnification against expenses (including attorneys' fees), judgements, fines, and amounts paid in settlement (as described above). The Association shall be obligated to indemnify such person (if entitled to indemnification by the Association) only to the extent such insurance does not indemnify such person. In the event that any expenses, judgements, funds, or amounts paid in settlement are paid pursuant to insurance maintained by such Association, the Association shall have no obligation to reimburse the insurance company.

ARTICLE XVI

INCONSISTENCY

In the event of any inconsistency between the terms and provisions contained in the Declaration and those contained in the Articles of Incorporation, the terms and provisions of the Declaration shall prevail.

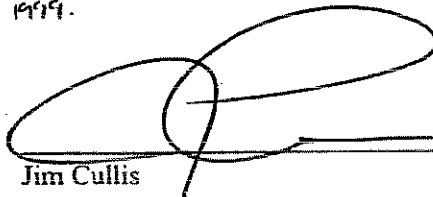
ARTICLE XVII

INCORPORATOR(S)

The name and street address of the sole incorporator to these Articles of Incorporation is as follows:

Jim Cullis
3 Waterside Parkway
Palm Coast, Florida 32137

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of Florida, the undersigned, constituting the sole incorporator of this Association, has executed these Articles of Incorporation this 3RD day of February, 1999.


Jim Cullis

STATE OF FLORIDA
COUNTY OF FLAGLER

I HEREBY CERTIFY that before the undersigned authority, personally appeared Jim Cullis, who is personally known to me or who has produced _____ as identification; has executed the foregoing Articles of Incorporation; has acknowledged the Articles of Incorporation; and has acknowledged the execution of such instrument for the uses and purposes therein expressed.

WITNESS my hand and official seal at Palm Coast, in the County of Flagler, State of Florida, this 3RD day of February, 1999.

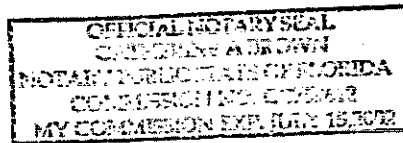
Catherine A. Brown

Print Name: _____

Notary Public, State of Florida

My Commission Expires: _____

(Notary Seal)



REGISTERED AGENT CERTIFICATE

In pursuance of the Florida Not-For-Profit Corporation Act, together with the provisions of Chapter 617 of the Florida Statutes applicable thereunder, the following is submitted in compliance with said statute:

That the Marsh Crossing Homeowners' Association, Inc., desiring to organize as a Florida not-for-profit corporation under the laws of the State of Florida, with its registered office, as indicated in the Articles of Incorporation, at 3 Waterside Parkway, Palm Coast, Florida 32137, and Jim Cullis, 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 not-for-profit corporation, at the place designated in this Certificate, the undersigned, hereby agrees to act in this capacity, and agrees to comply with the provision of said statutes relative to keeping open said office, and further states it is familiar with, and accepts, the obligations of said statutes applicable to registered agents of Florida not-for-profit corporations.



Print Name: Jim Cullis

Dated: February 3, 1999

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

**BY-LAWS
OF
MARSH CROSSING HOMEOWNERS' ASSOCIATION, INC.**

ARTICLE I

IDENTITY AND LOCATION

These are the By-Laws of MARSH CROSSING HOMEOWNERS' ASSOCIATION, INC., herein called the "Association", a corporation not for profit organized and existing under Chapter 617, Florida Statutes, for the purpose of administering the Property, as defined in and in accordance with the terms and conditions of that certain Declaration of Covenants, Conditions and Restrictions for Marsh Crossing ("Declaration"). The principal office of the Association shall be located at 3 Waterside Parkway, Palm Coast, Florida 32137, but meetings of Members and Directors may be held at such places within the State of Florida as may be designated by the Board of Directors.

ARTICLE II

GENERAL

Section 1. Incorporation of Declaration. As supplemented herein, the regulation of the business and affairs of the Association shall be governed by certain provisions of the Declaration, as amended from time to time, which are incorporated herein by reference as if set forth verbatim.

Section 2. Fiscal Year. The fiscal year of the Association shall be the calendar year or such other period as shall subsequently be determined by the Board of Directors.

Section 3. Seal. The seal of the Association shall bear the name of the Association, the word "Florida", and the year of incorporation.

Section 4. Definitions. The definitions set out in the Declaration are incorporated herein by reference.

ARTICLE III

MEMBERSHIP

Section 1. General. Membership in the Association shall be as set forth in the Articles of Incorporation.

Section 2. Suspension of Rights. Suspension of Rights is set forth in the Articles of Incorporation.

Section 3. Change of Membership. Change of Membership is set forth in the Articles of Incorporation.

Section 4. Membership Rights Appurtenant to Parcel Ownership. Membership Rights Appurtenant to Parcel Ownership is set forth in the Articles of Incorporation.

Section 5. Membership Rights Subject to Payment of Assessments. Membership Rights Subject to Payment of Assessments is set forth in the Articles of Incorporation.

ARTICLE IV

VOTING RIGHTS

Voting rights in the Association shall be as provided in the Articles of Incorporation.

ARTICLE V

PROPERTY RIGHTS AND RIGHTS OF ENJOYMENT OF COMMON AREAS

Section 1. Use of Common Areas. Each Member shall be entitled to the use and enjoyment of the Common Areas as provided in the Declaration.

Section 2. Delegation of Rights. Except as otherwise provided in the Declaration, any Member may delegate his rights of enjoyment in the Common Areas and, with respect to an Owner of a Lot or Dwelling, Recreational Amenities, to the members of his Family who reside upon the Property or to any of his tenants or renters who lease or rent from him. Such Member shall notify the Secretary in writing of the name of any such person or persons and of the relationship of the Member to such person or person. The rights and privileges of such person or persons are subject to suspension under Article III hereof to the same extent as those of the Member.

ARTICLE VI

MEETINGS OF MEMBERS

Section 1. Membership Annual Meeting. Meetings of the Members shall be held at Marsh Crossing, Palm Coast, Flagler County, Florida, or at such other location within the State of Florida as the Board of Directors shall determine, and shall occur at least once a year. An annual meeting of the Members shall be held on a day and time to be designated in the notice of the meeting.

Section 2. Membership Special Meetings. Special Meetings of the Members for any purpose may be called at any time by the President, Vice President, Secretary or Treasurer, or by a majority of the Board of Directors, or upon written request of one-fourth (1/4) of the total vote of the Members.

Section 3. Notice. Notice of any meetings shall be given to the Members by the Secretary in accordance with the Declaration. Notice of any special meeting shall include a description of the purpose for which the special meeting is called.

Section 4. Voting Requirements. Any action which may be taken by a vote of the Members may also be taken by written consent to such action signed by all Members in person or by proxy.

Section 5. Waiver of Notice. Notice of a meeting of Members need not be given to any Member who signs a waiver of notice, in person or by proxy, either before or after the meeting. The waiver must be delivered to the Association for inclusion in the minutes or filing with the corporate records. Attendance of a Member at a meeting, in person or by proxy, shall of itself constitute waiver of notice, except when the Member attends a meeting solely for the purpose of stating his objection, at the beginning of the meeting, to the transaction of any business on the ground that the meeting is not lawfully called or convened. Objection by a Member shall be effective only if written objection to the holding of the meeting or to any specific action so taken is filed with the Secretary of the Association.

Section 6. Quorum. The quorum required for any meeting of Members shall be as set forth in the Declaration.

Section 7. Adjournment. Any annual or special meeting may be adjourned to a different date, time, or place, and any business that might have been transacted on the original date of the meeting may be transacted at the adjourned meeting. In the event of such adjournment, the date, time and place shall be announced at during the original meeting before an adjournment is taken, or a new notice shall be provided to the Members prior to the adjourned meeting pursuant the Declaration.

ARTICLE VII

PROXIES

Section 1. Voting by Proxy. Each Member entitled to vote may vote in person or by proxy at all meetings of the Association.

Section 2. Proxies. All of the provisions of this Section 2 are subject to Section 13.1.1 of the Declaration. To the extent that a provision set forth in this Section is inconsistent with Section 13.1.1 of the Declaration, the provisions of Section 13.1.1 of the Declaration shall control. All proxies shall be executed in writing by the Member or by his duly authorized attorney-in-fact and filed with the Secretary. Unless a proxy otherwise states, it shall be deemed to confer the authority to execute consents and waivers and to exercise the right to examine the books and records of the Association. A proxy may be revocable or irrevocable but shall be deemed revocable at will unless otherwise specified therein. A proxy is effective only for the specific meeting for which it was originally given, as the meeting may be adjourned and reconvened from time to time, and no proxy shall be valid after ninety (90) days from the date of the meeting for which it was originally given. Any proxy shall automatically cease upon sale by the Member of the Member's property.

ARTICLE VIII

ASSOCIATION PURPOSES AND POWERS

Section 1. Association's Purposes. The Association has been organized for the purposes set forth in the Declaration including, without limitation, the following:

- (a) to own, acquire, build, operate and maintain the Common Areas, including but not limited to Recreational Amenities, Surface Water Management System, parking areas, buildings, structures and personal property incident thereto;
- (b) to clean, clear, trim, remove weeds, limbs, and debris from, and to provide general grounds maintenance for both the Property and the Common Areas;
- (c) to fix Assessments (or charges) to be levied against the Property in the subdivision;
- (d) to enforce any and all covenants and restrictions and agreements applicable to the Property;
- (e) to pay taxes and insurance, if any, on the Common Areas; and
- (f) such other matters as set forth in the Articles of Incorporation.

Section 2. Additions to Property and Membership. Additions to the Property may be made as provided in the Declaration. Such additions, when properly made under a Supplemental Declaration, shall extend the jurisdiction, functions, duties and membership of the Association to such Additional Property.

Section 3. Mergers and Consolidations. Subject to the provisions of the Declaration, and to the extent permitted by law, the Association may participate in mergers and consolidations with other non-profit corporations organized for the same purposes, provided that any such merger or consolidation shall be approved by the Members pursuant to the Declaration.

Section 4. Mortgages; Other Indebtedness. The Association shall have the power to mortgage the Common Areas as set forth in the Declaration.

Section 5. Dedication of Property or Transfer of Function to Public Agency or Utility. The Association shall have the power to dispose of its real property or dedicate same only as authorized under the Declaration.

Section 6. Records of the Association. The Association shall maintain each of the following items, when applicable, which constitute the official records of the Association:

- (a) Copies of any plans, specifications, permits, and warranties related to improvements constructed on the common areas or other property that the Association is obligated to maintain, repair, or replace;
- (b) A copy of these By-Laws and of each amendment to thereto;
- (c) A copy of the Articles of Incorporation of the Association and of each amendment thereto;
- (d) A copy of the Declaration and each amendment thereto;
- (e) A copy of the current rules of the Association;
- (f) The minutes of all meetings of the Board of Directors and of the Members, which minutes must be retained for at least seven (7) years;
- (g) A current roster of all Members and their mailing addresses and parcel identifications;
- (h) All of the Association's insurance policies or a copy thereof, which policies must be retained for at least seven (7) years;
- (i) A current copy of all contracts to which the Association is a party, including, without limitation, any management agreement, lease, or other contract under which the Association has any obligation or responsibility (Bids received by the Association for work to be performed shall also be considered official records and must be kept for a period of one (1) year); and
- (j) The financial and accounting records of the Association, kept according to good accounting practices, which financial and accounting records shall be maintained for a period of at least seven (7) years. The financial and accounting records shall include: (1) accurate, itemized, and detailed records of all receipts and expenditures, (2) a current account and a periodic statement of the account for each Member, designating the name and current address of each Member who is obligated to pay Assessments, the due date and amount of each Assessment or other charge against the Member.

the date and amount of each payment on the account, and the balance due, (3) all tax returns, financial statements, and financial reports of the Association, and (4) any other records that identify, measure, record, or communicate financial information.

ARTICLE IX

BOARD OF DIRECTORS

Section 1. Board of Directors; Selection; Terms of Office. The affairs of the Association shall be managed by a Board of Directors consisting of three (3), five (5), seven (7), nine (9) or eleven (11) members, with the number in subsequent years to be determined by the members of the Board of Directors as provided for in the Declaration and these By-Laws. The Declarant shall have the sole right to appoint and remove any member or members of the Board of Directors of the Association pursuant to Sections 10.1 and 13.1 of the Declaration until the first of the following dates: (i) December 31, 2010; (ii) the date on which Declarant has conveyed to Owners other than Declarant property representing ninety percent; (90%) of the total number of Lots and Dwellings intended for use on all of the Property as set forth in a Supplemental Declaration; or (iii) the date the Declarant surrenders the authority to appoint and remove Directors of the Association by an express amendment to the Declaration executed and filed in the Public Records of Flagler County, Florida, by Declarant. At the first annual meeting of Members after the occurrence of the first of such events, the Members shall elect five (5) Directors, one of whom must be the President. The Members shall elect two (2) Directors for a term of one (1) year, two (2) Directors for a term of two (2) years and one (1) Director for a term of three (3) years. Notwithstanding the foregoing, in the event that the President is removed from such office pursuant to Article XI below, his term as a Director shall expire upon the effective date of such removal.

Section 2. Vacancies in the Board of Directors. Vacancies in the Board of Directors shall be filled by Declarant until Declarant has no authority to appoint Directors and thereafter by the majority of the remaining Directors, or by a sole remaining Director, and any such appointed Director shall serve for the remaining term of his predecessor. In the event that any member of the Board of Directors of the Association shall be absent from three (3) consecutive regular meetings of the Board of Directors without excuse, the Board may, by action taken at the meeting during which said third absence occurs, declare the office of said Director to be vacant.

ARTICLE X

ELECTION OF DIRECTORS

Election to the Board of Directors shall be as provided in Article IX above. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration applicable to the Property. The names receiving the largest number of votes shall be elected.

ARTICLE XI

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Board of Directors' Powers. The Board of Directors shall have power:

- (a) to call special meetings of the Members;
- (b) subject to Article XIII herein, to appoint and remove at its pleasure all officers, agents and employees of the Association, prescribe their duties, fix their compensation and require of them

such security or fidelity bond as it may deem expedient. Nothing contained in these By-Laws shall be construed to prohibit the employment of any Member, Officer or Director of the Association in any capacity whatsoever;

(c) to establish, levy and assess, and collect the Assessments or charges;

(d) to adopt and publish rules and regulations governing the use of the Common Areas and Recreational Amenities, and the personal conduct of the Members and the guests thereon;

(e) to exercise for the Association all powers, duties and authority vested in or delegated to the Association, except those reserved to the Members in these By-Laws or the Declaration;

(f) to fill vacancies on the Board of Directors pursuant to Article IX above;

(g) to appoint an Executive Committee of three (3) Directors and delegate all or any portion of the powers of the Board of Directors to this Executive Committee, subject to the limitations on the authority of the Executive Committee imposed by law; and

(h) to take such other action as provided in the Declaration.

Section 2. Board of Directors' Duties. It shall be the duty of the Board of Directors:

(a) to cause to be kept a complete record of all its acts and corporate affairs;

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

(c) to prepare the annual budget in accordance with the Declaration;

(d) to fix the amount of Assessments in accordance with the Declaration;

(e) to prepare a roster of the Property and Assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Member;

(f) to send written notice of each Assessment to each Property Owner subject thereto;

(g) to issue upon demand by any Owner or mortgage lender a certificate setting forth whether any Assessment has been paid (which certificate shall be conclusive evidence of any Assessment therein stated to have been paid); and

(h) to prepare or cause to be prepared an unaudited annual financial report of the Association within sixty (60) days after the close of the fiscal year, and to provide each Member with a copy of the annual financial report or written notice that a copy of the financial report is available upon request at no charge to the Member.

Section 3. Resignation. A Director of the Association may resign at any time by giving a written notice to the Board of Directors or the President of the Association. The resignation of any Director shall take effect upon delivery of the notice thereof or at such later time as shall be specified in such notice; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 4. Removal. Except as otherwise provided in the Declaration and in Article VIII herein, any Director may be removed, with or without cause, by a vote of the holders of a majority of the votes of the Members present, in person or by proxy, and entitled to vote at a special meeting of the Members called for that purpose.

Section 5. Directors' Fees. There shall be no Directors' fees paid to members of the Board of Directors, except that Directors shall be entitled to reimbursement of out-of-pocket costs authorized by the Board of Directors.

ARTICLE XII

DIRECTORS' MEETINGS

Section 1. Directors' Annual Meeting. The annual meeting of the Board of Directors shall be held at the discretion of the Board of Directors with ample notice given to each Member.

Section 2. Notice. Not less than ten (10) days' written notice of such annual meeting shall be given to each Director. Except in an emergency, notices of all meetings of the Board of Directors shall be given to all Members by (a) posting in a conspicuous place in the community at least forty-eight (48) hours in advance of a meeting, (b) written notice mailed or delivered to each Member at least seven (7) days before the meeting, or (c) by publication of notice or provision to Members of a schedule of Board meetings.

Section 3. Special Meetings. Special meetings of the Board of Directors shall be held when called by any officer of the Association or by any two (2) Directors after not less than three (3) days' notice to each Director. Except in an emergency, notices of any such special meetings of the Board of Directors shall be given to all Members by posting in a conspicuous place in the community at least forty-eight (48) hours in advance of the meeting.

Section 4. Waiver of Notice. A Director may waive notice of a meeting of the Directors before or after the date and time stated in the notice. Except as otherwise provided in this Section 4, the waiver must be in writing, signed by the Director entitled to the notice and filed with the minutes or corporate records. Attendance of a Director at any meeting shall constitute waiver of notice of such meeting, except where the Director attends for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened and does not thereafter vote for or assent to action taken at the meeting. If a meeting otherwise valid of the Board of Directors is held without notice where such is required, any action taken at such meeting shall be deemed ratified by a Director who did not attend, unless after learning of the action taken and of the impropriety of the meeting, he makes prompt objection thereto. Objection by a Director shall be effective only if written objection to the holding of the meeting or to any specific action so taken is filed with the Secretary of the Association.

Section 5. Action Upon Written Consent Without a Meeting. Action of the Board of Directors may be taken without a meeting upon the written consent signed by all members of the Board. Any such action without meeting shall be effective on the date the last Board member signs the consent or on such date as is specified in the consent. Any such action by written consent shall have the same effect as a vote taken at a meeting of the Board of Directors.

Section 6. Board Quorum. The Majority of the Board of Directors shall constitute a quorum thereof.

ARTICLE XIII

OFFICERS

Section 1. Association Officers. The Officers shall be a President, a Vice-President, a Secretary and a Treasurer. The President shall be a member of the Board of Directors; all other Officers may be, but shall not be required to be, members of the Board of Directors.

Section 2. Election of Officers. The Declarant shall have the sole right to appoint and remove any Officer of the Association pursuant to Sections 10.1 and 13.1 of the Declaration until the first of the following dates: (i) December 31, 2010; (ii) the date on which Declarant has conveyed to Owners other than Declarant property representing ninety percent (90%) of the total number of Lots and Dwellings intended for use on all of the Property as set forth in a Supplemental Declaration; or (iii) the date the Declarant surrenders the authority to appoint and remove Directors of the Association by an express amendment to the Declaration executed and filed in the Public Records of Flagler County, Florida, by Declarant. Thereafter, all Officers shall hold office at the pleasure of the Board of Directors.

Section 3. Removal of Officer. Upon an affirmative vote of a majority of the members of the Board of Directors, any Officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board called for such purpose.

Section 4. President. The President shall preside at all meetings of the Board of Directors, shall see that orders and resolutions of the Board of Directors are carried out and shall sign all notes, checks, leases, mortgages, deeds and all other written instruments.

Section 5. Vice President. The Vice President shall perform all the duties in the absence of the President.

Section 6. Secretary. The Secretary shall be the *ex officio* Secretary of the Board of Directors, shall record the votes and keep the minutes of all proceedings in a book to be kept for such purpose. The Secretary shall sign all certificates of membership and shall keep the records of the Association. The Secretary shall record in a book kept for that purpose the names of all Members of the Association, together with their addresses as registered by such Members.

Section 7. Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; provided, however, that a resolution of the Board of Directors shall not be necessary for disbursements made in the ordinary course of business. The Treasurer shall sign all checks and notes of the Association, provided that such notes and checks shall also be signed by the President or Vice President.

ARTICLE XIV

LIABILITY AND INDEMNIFICATION

Section 1. Liability of Board Member. No Board Member or Officer of the Association shall be liable to any Owner and/or Member for any decision, action or omission made or performed by such Board Member or Officer in the course of his duties unless such Board Member or Officer acted in bad faith or in reckless disregard of the rights of any person or of the terms of the Declaration or these By-Laws.

Section 2. Indemnification. To the fullest extent allowed by Section 617.0831, Florida Statutes, as same may be amended, the Association shall indemnify the Directors, Officers, Employees, Agents and other persons specifically designated from time to time by the Board of Directors whom it may indemnify pursuant to law. In this connection, the Association is authorized to take out such insurance as it may deem necessary or desirable consistent with such indemnification.

ARTICLE XV

INSURANCE

The Board of Directors or its duly authorized agent shall obtain hazard insurance for its improvements and Common Area and a broad form public liability policy covering all common area and all damage or injury caused by negligence of the Association or any of its agents as more fully described in the Declaration.

ARTICLE XVI

AMENDMENTS

These By-Laws may be amended or repealed and new By-Laws adopted by the Directors so long as Declarant has the authority to appoint the Directors and thereafter by a two-thirds (2/3) vote of the Members present, in person or by proxy, and entitled to vote at a regular or special meeting of the Members; provided that any matter which is in fact governed by the Declaration may not be amended except as provided in the Declaration.

ARTICLE XVII

GENERAL

Section 1. Conflicts. It is intended that the provisions of the Declaration which apply to the governance of the Association, as supplemented by the provisions in these By-Laws which are not contained in the Declaration, shall operate as the By-Laws of the Association. In the case of any conflict between such provisions set forth in the Declaration and these By-Laws, the Declaration shall control.

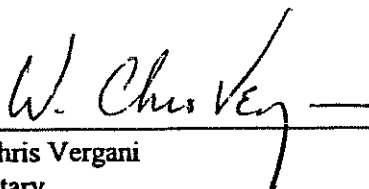
Section 2. Waiver. No provision of these By-Laws or any regulation promulgated by the Board of Directors pursuant hereto shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, regardless of the number of violations or breaches which may have occurred.

Section 3. Severability. The provisions of these By-Laws are severable, and the invalidity of one or more provisions hereof shall not be deemed to impair or affect in any manner the enforceability or effect of the remainder.

Section 4. Captions. Captions are inserted herein only as a matter of convenience and for reference and in no way define, limit, or describe the scope of these By-Laws or the intent of any provision.

Section 5. Gender and Number. All nouns and pronouns used herein shall be deemed to include the masculine, the feminine, and the neuter, and the singular shall include the plural and the plural shall include the singular whenever the context requires or permits.

Section 6. Roberts Rules. All meetings of the membership of the Board of Directors shall be conducted in accordance with *Roberts Rules of Orders Revised*.



W. Chris Vergani
Secretary

APPROVED.



Jim Cullis, President
Marsh Crossing Homeowners' Association, Inc.

February 3, 1999

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