

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE ARBORS

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE ARBORS (hereinafter referred to as the "Declaration") is made and executed this 28th day of April, 2006 by CASCADES COMMUNITY DEVELOPERS, INC., a Florida corporation, its successors and assigns (hereinafter referred to as the "Declarant").

RECITALS :

WHEREAS, Declarant is the owner of the described property lying and being in the County of Brevard, State of Florida, to-wit:

SEE ATTACHED LEGAL DESCRIPTION AT EXHIBIT "A"

(which property is also being platted as THE ARBORS AT LONGLEAF, and is hereinafter referred to as the "Property"); and

WHEREAS, Declarant desires to improve the lots located on the Property by constructing thereon residential dwelling units (hereinafter referred to, individually as a "Townhouse" and severally as the "Townhouses") and further desires to provide for the shared maintenance of the Lots, Townhouses and the improvements through an association of Lot Owners; and

WHEREAS, Declarant desires to construct other facilities for the common use, benefit and enjoyment of all Owners and to transfer ownership of such facilities to the association of Owners; and

WHEREAS, Declarant desires to establish protective covenants pertaining to the development, improvement, and usage of the Property and the Lots for the benefit and protection of all Owners thereof.

NOW, THEREFORE, Declarant does hereby declare that all of the Property shall hereafter be subject to the following provisions, restrictions, reservations, covenants, conditions and easements:

DEFINITIONS

The following words when used in the Declaration, as defined herein, or any amendment, supplement or modification thereto (unless the context shall prohibit) shall have the following meanings:

A. **"Articles of Incorporation" or "Articles"** shall mean and refer to the Articles of Incorporation of The Arbors Homeowners Association of Brevard County, Inc., as they may be amended from time to time. A copy of the Articles of Incorporation with Articles of Amendment is attached hereto as **Exhibit "B"**.

B. **"Assessment"** shall mean and refer to those charges made by the Association, from time to time, against each Lot within the Property for the purposes, and subject to the terms, set forth herein, whether made regularly and in proportional amounts as to each Lot, or as an

Scott Ellis

Clerk Of Courts, Brevard County

#Pgs: 57	#Names: 2	
Trust: 29.00	Rec: 457.00	Serv: 57.00
mtg: 0.00		Excise: 0.00
		nt Tax: 0.00

assessment against a single Lot or a limited number of Lots, and shall mean, but not be limited to, all assessments, fees or charges described in Section 12 of this Declaration.

C. **"Association"** shall mean THE ARBORS HOMEOWNERS ASSOCIATION OF BREVARD COUNTY, INC., a Florida corporation not-for-profit.

D. **"Board"** shall mean the Board of Directors of the Association. It is the body responsible for the administration of the Association, selected as provided in the By-Laws and generally serving the same role as the board of directors under Florida corporate law.

E. **"Builder"** shall mean any natural person, corporation, partnership, trustee or other legal entity designated and approved by the Declarant for the purpose of constructing Townhomes on the Lots.

F. **"By-Laws"** shall mean and refer to the By-Laws of THE ARBORS HOMEOWNERS ASSOCIATION OF BREVARD COUNTY, INC, as they may be amended from time to time. A copy of the By-Laws is attached hereto as **Exhibit "C"**.

G. **"Common Area" or "Common Property"** shall mean all real and personal property whether improved or unimproved, or any interest therein, including easements, which the Association owns, leases or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners, including, but not limited to the Stormwater Management System and further including the benefit of all easements, rights and other interests established in favor of the Association by this Declaration or any plat of the Property or any portion thereof.

H. **"Declarant"** shall mean CASCADES COMMUNITY DEVELOPERS, INC., a Florida corporation, and its successors or assigns as designated in writing by the Declarant.

I. **"Declaration"** shall mean this instrument, the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE ARBORS as such may be amended from time to time as provided herein.

J. **"Design Guidelines"** refers to a document promulgated by the Declarant, Board or Architectural Review Board to implement, expand upon, and further clarify architectural and modification issues related to Lots, Townhouses and their Owners as set forth in this Declaration.

K. **"Director"** shall mean a member of the Board of Directors of the Association.

L. **"Governing Documents"** shall mean a collective term referring to this Declaration, the Articles, the By-Laws, the Design Guidelines and the Rules and Regulations as such documents may be promulgated and amended from time to time.

M. **"THE ARBORS", "Property" or "Properties"** shall mean that real estate development located in Brevard County, Florida, developed by the Declarant, all portions of which are subject to this Declaration and for which a legal description is included in **Exhibit "A"** attached hereto.

N. **"Lot"** shall mean any plot of land shown upon any recorded subdivision plat of the Properties and upon which a Townhouse will be constructed.

O. **"Member"** shall mean and refer to a Member of the Association, which shall include the Owners of all Lots. Each person hereafter owning a vested interest in the fee title to any Lot, which interest is evidenced by a recorded and valid instrument in the Public Records of Brevard County, Florida shall automatically be Members of the Association and such membership shall be terminated without the necessity of any formal action upon the recording of a valid instrument terminating or transferring the vested, present interest of such person in a Lot to another. Membership in the Association shall be and is appurtenant to and may not be separated from ownership of any Lot.

P. **"Owner"** shall mean and refer to the record Owner, whether one or more persons or entities, of the record fee or undivided fee interest in any Lot located within the Properties, but shall not mean or refer to Declarant, Builder or any mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure. If a Lot is held in a Trust, then the Trustee shall be considered to be the Owner of the Lot for all purposes stated herein. Whenever the context so dictates or requires, "Owner" may also mean the Owner's family members, guests, licensees, agents and invitees, and the lessees of the Owner, their family members, guests, licensees, agents and invitees.

Q. **"Plat"** shall mean and refer to the plat of THE ARBORS AT LONGLEAF as will be recorded in the Public Records of Brevard County, Florida.

R. **"Rules and Regulations"** means any and all rules and regulations duly promulgated by the Association pursuant to this Declaration, the Articles and the By-Laws.

S. **"Stormwater Management System" or "SWMS"** shall mean a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted by the St. Johns River Water Management District (hereinafter "SJRWMD") pursuant to Chapters 40C-4, 40C-40, or 40C-42, of the Florida Administrative Code. Components of the SWMS consist of, but are not limited to, swales, inlets, culverts, retention ponds, lakes, outfalls, storm drains and the like and all connecting pipes and easements used in connection with the retention, drainage and control of stormwater.

T. **"Townhouse"** shall mean the residential dwelling unit and attached garage designed for residential use and occupancy by a single family or household.

U. **"Turnover"** means the termination of the Class B membership and the acceptance of control of the Association by the Owners.

1. ASSOCIATION.

Except as may be otherwise provided by the terms hereof, responsibility for the operation, management, and maintenance of THE ARBORS shall be vested in the Association. The primary purpose of the Association shall be to maintain the SWMS, Common Property and Common Improvements (as hereinafter defined), enforce the provisions of the Governing Documents and perform such other duties as may be assigned to it under the terms hereof or under its Articles of Incorporation and By-Laws. All persons owning a vested present interest in the fee title to any of the Lots, which interest is evidenced by a proper instrument duly recorded

in the Public Records of Brevard County, Florida, shall automatically be members of the Association, and their respective membership shall terminate as their vested interest in the fee title terminates. The Association shall have all of the rights and powers provided by Florida Statutes and the Governing Documents.

2. MEMBERSHIP AND VOTING RIGHTS.

A. Membership. Every Owner of a Lot is a Member of the Association. If title to a Lot is held by more than one (1) person, each such person is a Member. An Owner of more than one (1) Lot is entitled to one (1) membership per each Lot owned. Each membership is appurtenant to the Lot upon which it is based, and it is transferred automatically by conveyance of title to that Lot, and may not be separated from ownership of a Lot. No person except an Owner may be a Member of the Association, and a membership in the Association may not be transferred except by transfer of title to a Lot. An Owner who is a contract seller may assign such Owner's membership and voting rights to such Owner's vendee in possession.

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

1) Class A: The Class A Member shall be all Owners, with the exception of Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in the Lot owned, all such persons shall be Members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

2) Class B: The Class B Member shall be Declarant, who shall be entitled to three (3) votes for each Lot owned by the Declarant and Builder. The Class B membership shall cease and be converted to Class A membership on the happening of one (1) of the following events, whichever occurs earlier:

(a) When the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership; or

(b) On December 31, 2008; or

(c) Within three (3) months after ninety percent (90%) of the Lots have been sold to members other than Builder; or

(d) At such time as the Declarant or its successors and assigns, in its sole discretion, elects to terminate its Class B membership.

Until Turnover, the Declarant shall have the right to appoint the directors and officers of the Association. Upon Turnover, the officers and directors appointed by the Class B Member shall submit their written resignations, and the Class A Members shall elect their own officers and directors and assume control of the Association. Provided, however, so long as the Declarant or Builder is the Owner of one (1) Lot subject to this Declaration, Declarant shall be entitled to appoint one (1) member of the Board of Directors, who shall be removable and replaceable only by the Declarant. At such time as the Declarant's directors and officers resign, or the Declarant is otherwise obligated or desires to turnover the control of the Association, it shall be the affirmative obligation of the Class A Members to assume control of the Association and to elect the replacement directors. Provided at least thirty (30) days notice of the

Declarant's decision to cause its directors and officers to resign or to hold the first meeting for the election of directors is given to the Members, neither the Declarant nor such directors and officers shall be held liable, financially or in any other manner in connection with any such resignation, even if the Class A Members refuse or fail to assume control at such meeting.

Within a reasonable amount of time after Class A Members first elect new Directors of the Association (not more than thirty (30) days after such event), Declarant shall deliver to the Association all property owned by, maintained and controlled by the Association then held by, maintained or controlled by the Declarant and the documents required by Section 720.307, Florida Statutes and any amendments thereto.

3. LAND USE CLASSIFICATIONS AND RESTRICTIONS.

The Declarant does hereby declare that the following provisions shall be applicable to the Property which shall be transferred, demised, sold, conveyed and occupied subject to the terms of the Declaration as follows:

A. Common Property. The Common Property shall be deemed to include all real and personal property (or interest therein) intended for the common use and enjoyment of all Owners and initially includes, but is not limited to, the areas designated as Tracts A, B, C, D, E, F, G and H on the Plat of THE ARBORS AT LONGLEAF, all of which are or will be owned by and shall be maintained by the Association. The Common Property also includes any other area not included on a platted lot and the following:

1) Drainage. A part of the Common Property is the master drainage system of the Property SWMS as permitted by the SJRWMD including the waters of all ponds, drainage structures, pipes and equipment, and all easements for the drainage system as may exist by virtue of the Declaration, a plat or other recorded instrument, easements or by any other methods.

2) Recreation Areas. Buildings, parks, open spaces and other utility or recreation areas or easements set aside for the benefit of all Owners.

3) Streets and Sidewalks. The streets and sidewalks within THE ARBORS are private and are to be owned and maintained by the Association.

4) Walls. Walls constructed by the Declarant, Builder and/or Association within the Property, specifically excluding any walls constructed as part of a Townhouse.

5) Signage Areas. Certain areas may be used by the Declarant, in its sole discretion, for the identification, marketing, and selling of the subdivision and Lots.

B. Conveyance to Association. Declarant shall have the right to convey title to any property within THE ARBORS owned by it, or any interest therein, to the Association as Common Property. Declarant may require the Association to operate and/or maintain any property owned by Declarant which Declarant intends to eventually convey to the Association as Common Property. In that event, such property shall be deemed Common Property even though not yet owned by the Association. The timing of the conveyance of any Common Property prior to Turnover shall be in the sole discretion of Declarant.

C. Method of Conveyance. The Declarant may transfer title (or any interest therein) to any portion of the Common Property to the Association by deed or other appropriate instrument recorded in the Public Records of Brevard County, Florida. The Association shall be obligated to accept the conveyance as delivered by the Declarant and to maintain the Common Property for the use and benefit of the Owners.

D. Use of Common Property. Every Owner shall have the nonexclusive right to use and enjoy the Common Property subject to the following:

1) Transfer of Common Property. Except as is provided in the Declaration, once title to Common Property is transferred to the Association, it shall not be abandoned, partitioned, subdivided, alienated, released, transferred, hypothecated, or otherwise encumbered without first obtaining the written approval of the Declarant for so long as it owns any portion of the Property. The Association may encumber the Common Property without Owner approval provided such encumbrances are to secure loans obtained for improving the Common Property being encumbered or to grant easements for the benefit of the Association or Owners.

2) Use by Owners. Subject to any rules and regulations of the Association, a non-exclusive and perpetual right of use of all Common Property shall be deemed to have been granted to: (a) all Owners and their guests; (b) United States mail carriers, and representatives of fire departments, police and sheriff's departments, and other necessary municipal, county, special district, state and federal agencies (in their official capacity); (c) holders of bonafide security interests and mortgages on any Property (for the purpose of reasonable inspections of such Property); and (d) realtors showing property and prospective purchasers.

3) Prohibited Uses. No Owner shall, without the written approval of the Declarant or the Association, do any of the following on any part of the Common Property: (a) permit the running of animals except when on a leash; (b) light any fires except in designated areas; (c) fell any trees or injure or damage any landscaping; (d) interfere with any drainage, utility or access easements; or (e) interfere with any water control structures or apparatus. Nor shall any Owner violate rules and regulations that may be established by the Association governing the use of the Common Property.

E. Residential Property. Residential property is that portion of the Property upon which Townhouses may be constructed and shall be for residential use only. No business, commercial activity or profession may be conducted from any Lot, nor may the name of the community or the address of any Townhouse be publicly advertised as the location of any business. Nothing herein, however, shall preclude an Owner from conducting In-Home Business Activities, provided that such Owner receives the prior written approval of the Board. Such approval may be withheld for any reason, including failure to pay assessments, in the Board's sole discretion. Any In-Home Business Activities as used herein shall only mean and include business activities conducted solely within a Townhouse and which do not cause, create or entail any of the following:

- 1) increased vehicular traffic or parking on the Property;
- 2) clients, customers, or patrons visiting or entering the Property;
- 3) sales activity or solicitation within the Property;
- 4) any form of advertising or signage on or within the Property;
- 5) delivery of supplies or other items to any portion of the Property; and

6) any other manifestation of such business activity which may be construed a nuisance or which would unreasonably disturb the residential ambience of the Property, in the sole, unfettered discretion of the Board.

F. Use of Property by the Declarant. Except as may be limited in the Declaration, the Declarant and its successors, nominees, assigns and Builder shall have the right to make such uses of the Property as the Declarant shall, from time to time, determine. Notwithstanding anything to the contrary contained in the Declaration and in recognition of the fact that the Declarant will have a continuing and substantial interest in the development and administration of the Property, the Declarant hereby reserves for itself and its successors, nominees, assigns and Builder, and the Association recognizes, agrees to and acknowledges that the Declarant and its successors, nominees, assigns and Builder shall have the right to use all Common Property and all other portions of the Property in conjunction with and as part of its program of the sale, construction and development of the Property. The Declarant's and Builder's right shall include, but not be limited to, the right to enter and transact business, maintain models and sales offices, place signs, employ sales personnel, show Townhouses, and other portions of the Property, allow the presence of realtors and potential buyers while engaged in real estate sales activities within the Property and use portions of the Property, Lots and Townhouses and other improvements owned by the Declarant, Builder or the Association for purposes set forth above and for storage of construction materials and for assembling construction components without any cost to the Declarant, Builder or the Association.

4. ARCHITECTURAL REVIEW.

A. Intent. It is the intent of this Article to provide a mechanism by which the Association may take reasonable steps to maintain the aesthetic integrity and consistency of the Property in the condition and appearance in which same is initially developed and constructed but, at the same time, facilitating the orderly development of the Property (including Lots and related improvements thereon) in a manner consistent with the plans, policies and intent of the Declarant.

B. Architectural Review Board. The Board of Directors of the Association shall appoint the Architectural Review Board (hereinafter "ARB"), the purpose of which is to carry out the intent of this Article. The ARB shall consist of not less than three (3) and no more than seven (7) members, each of whom shall serve at the pleasure of the Board of Directors. In the event that the Board of Directors of the Association shall fail to appoint an ARB or shall affirmatively elect not to do so and instead elect to perform such role, then the Board of Directors itself shall perform the functions of the ARB hereunder.

The ARB shall have the power to promulgate such Design Guidelines and procedures as it deems necessary to carry out the provisions and intent of this section; provided, however, that no such Design Guideline or procedure shall be effective unless and until same is approved by the Board. A majority of the ARB may take any action the ARB is empowered to take, may designate a representative to act for the ARB and may employ personnel and consultants to act for it. In the event of death, disability or resignation of any member of the ARB, the Board shall have full authority to designate a successor. The members of the ARB shall not be entitled to any compensation for services performed pursuant to this Declaration, unless engaged by the Association in a professional capacity. The ARB shall act to approve or disapprove completed applications submitted to it within thirty (30) days after receipt of the completed application including all further documentation required by the ARB. However, any

application not specifically approved during this thirty (30) day period shall be deemed unapproved. No request for approval shall be valid or require any action unless and until all Assessments on the applicable Lot, including but not limited to, any interest and late charges thereon and costs of collection including attorney's fees, have been paid in full.

C. Required Approval. No building or other structure or improvement of any nature (including, but not limited to, pools, screen enclosures, patios or patio extensions, exterior paint or finish, awnings, shutters, hurricane protection, basketball hoops, swing sets or play apparatus, decorative plaques or accessories, birdhouses, other pet houses, swales, asphaltting, sidewalk/driveway surfaces or treatments or other improvements or changes of any kind, even if not permanently affixed to the land or to other improvements) shall be erected, placed, modified, altered or permitted to remain on any Lot unless the construction plans and specifications and a plan showing the kind, shape, materials, colors and location of the structure, exterior elevations, and landscaping, as may be required by the ARB have been approved in writing by the ARB. Refusal of approval of plans, specifications and plot plan, or any of them, may be based on any ground, including purely aesthetic grounds, which in the sole discretion of said ARB, seems sufficient. Any change in the exterior appearance of any Townhouse or other structure or improvements, and any material change in the appearance of landscaping, shall be deemed an alteration requiring approval.

In light of the fact that the manner in which a Townhouse is located on the Property may differ, in approving or disapproving requests submitted to it hereunder, the ARB may vary its standards between the Townhouses to reflect such differing locations. Accordingly, the fact that the ARB may approve or disapprove a request pertaining to a particular Townhouse shall not serve as precedent for a similar request from another Owner.

In the event that any new improvement or landscaping is added to a Townhouse or Lot, or any existing improvement on a Lot is altered, in violation of this section, the Association shall have the right (and an easement and license) to enter upon the applicable Lot and remove or otherwise remedy the applicable violation after giving the Owner of the Lot at least ten (10) days prior written notice of, and opportunity to cure, the violation in question. The costs of such remedial work plus a surcharge of twenty-five dollars (\$25.00) or fifteen percent (15%) of the aforesaid costs, whichever is greater, shall be a Specific Assessment against the Lot, which Assessment shall be payable upon demand and secured by the lien for Assessments provided for in the Declaration.

The approval of any proposed improvements or alterations by the ARB shall not constitute a warranty or approval as to, and neither the Association nor any member or representative of the ARB or the Board shall be liable for, the safety, soundness, workmanship, materials or usefulness for any purpose of any such improvement or alteration nor as to its compliance with governmental or industry codes or standards. By submitting a request for the approval of any improvement or alteration, the requesting Owner shall be deemed to have automatically agreed to hold harmless and indemnify the aforesaid members, the Association generally and the Declarant from and for any loss, claim or damages connected with the aforesaid aspects of the improvements or alterations. The requesting Owner shall be responsible for obtaining any required permits for any such improvement or alteration from any governmental agency having jurisdiction over the Property.

The ARB may, but shall not be required to, require that any request for its approval be accompanied by the written comments of the Owners of the Lots abutting the Townhouse proposed to be altered or further improved as described in the request.

D. New Construction. Notwithstanding anything in this Article or the Declaration to the contrary, the initial construction of Townhouses or other improvements within the Property by the Declarant and Builder shall not be subject to review and approval by the ARB or otherwise fall under the jurisdiction of this Article.

5. TOWNHOUSE PLAN.

Prior to initial conveyance by Declarant of title to any lot in THE ARBORS, Declarant or Builder shall construct on the lot a Townhouse, together with such associated improvements as Declarant or Builder may be contractually obligated to provide or as Declarant may otherwise deem appropriate.

Declarant intends to construct one-hundred ten (110) Townhouses within the Property in buildings with varying numbers of Townhouses per building. Townhouses in each building will be separated along the common lot line by a party wall. By controlling the construction of the Townhouses, Declarant and Builder intend to provide a harmonious exterior appearance and design for all of the Townhouses in THE ARBORS.

Declarant or Builder shall prepare a site plan survey for each Lot in THE ARBORS upon which a Townhouse is built depicting the boundaries and improvements of the Lot (the "Lot Survey"). Upon completion of construction of each Townhouse, Declarant or Builder shall indicate on the respective Lot Survey the location of the Townhouse on the Lot and the Townhouse's exterior dimensions. Upon the initial conveyance by Declarant or Builder of each Townhouse and Lot, a copy of the Lot Survey shall be recorded with the deed of conveyance so that the location of the Townhouse and Lot is ascertainable from an examination of the Public Records of Brevard County, Florida. Following recording of the Lot Survey, the Lot Survey may be amended by Declarant or Builder to correct any errors or omissions therein. Any such amendment to the Lot Survey shall be attached to a duly executed instrument describing the purpose of the amendment, which instrument shall be recorded in the Public Records of Brevard County, Florida.

The obligation of Declarant or Builder to construct a Townhouse on a Lot prior to the initial conveyance of same shall not apply to a conveyance of a Lot to a party who succeeds to the rights and obligations of Declarant hereunder or to Builder. Except as Declarant or Builder may otherwise expressly provide by contract, the construction, development, and sale by Declarant or Builder of the Lots, Townhouses and other property and improvements in THE ARBORS, is without warranty, and **NO WARRANTIES OF FITNESS, HABITABILITY, OR MERCHANTABILITY AS TO ANY PORTION OF THE ARBORS PROPERTY OR IMPROVEMENTS CONSTRUCTED BY DECLARANT OR BUILDER THEREON OR IN CONNECTION THEREWITH SHALL BE IMPLIED.**

6. OWNER IMPROVEMENTS. As used herein, the Owner Improvements on a Lot shall mean:

A. All improvements lying within the interior of the Townhouse (including the attached garage when context allows) constructed by Declarant or Builder on the Lot, other than: utility

chases, installations, and facilities serving more than one Townhouse or Common Property; and electrical apparatus and wiring, plumbing pipes and apparatus, and other ducts, conduits, cables, wires, and pipes that serve more than one Townhouse or the Common Property. By way of example, and not as a limitation, improvements lying within the interior of a Townhouse that are included within the Owner Improvements are:

- 1) all paint, finish, covering, wallpaper, and decoration of the interior surfaces of all doors, walls, floors, and ceilings;
- 2) all shelves, cabinets, counters, storage areas, and closets;
- 3) all refrigerators, stoves, ovens, disposals, trash compactors, dishwashers, washers, dryers, water heaters, ceiling fans and other appliances and all kitchen and bathroom plumbing fixtures, equipment and apparatus;
- 4) all electrical, plumbing, telephone, and television fixtures, apparatus, equipment, outlets, switches, wires, pipes, and conduits that do not serve any other Townhouse;
- 5) all mechanical, ventilating, heating and air conditioning equipment;
- 6) all interior doors, walls, partitions, and room dividers;
- 7) all joists, framing materials, dry wall, tile, concrete slabs, attic flooring and all other materials located within the exterior shell of the Townhouse and which serve only the Townhouse; and
- 8) all furniture, furnishings, and personal property contained within the Townhouse.

B. All exterior windows and all components of the window framing structure, screens, and glass doors (including all components of the glass door framing structure and its sliding mechanism including but not limited to slides, rails and guides);

C. All heating and air conditioning equipment, wherever located, that serves only the Townhouse;

D. All garage door openers, doorbells, exterior lighting fixtures and wiring serving same;

E. All alterations or additions made by the Townhouse Owner, or by any of his predecessors in title other than Declarant or Builder, to the Townhouse or the Lot, which alterations or additions shall be made pursuant to authorization by the ARB as provided herein; and

F. The common wall between two adjacent Townhouses.

7. COMMON IMPROVEMENTS.

As used herein, the Common Improvements on the Lot shall mean all the improvements and parts thereto other than the Owner Improvements. By way of illustration and not as a limitation, the Common Improvements on the Lot shall include the following, to the extent the same are not included within the Owner Improvements:

- A. All exterior walls, roofs and doors (excluding windows and exterior glass doors (see 6B above) of the Townhouse and attached garage including, but not limited to, all soffits, fascia, sub-fascia, rain gutters and components thereof, and vents.
- B. All utility chases, utility installations utility lines or other facilities and equipment serving more than one Townhouse or the Common Property; provided, however, Declarant reserves the ownership of all central television antenna signal distribution wires, lines, and equipment that are installed by Declarant or Builder within THE ARBORS property boundaries together with the right to convey the same to the Association, Brevard County or an agency thereof, or other person or legal entity as Declarant may deem appropriate.
- C. All electrical apparatus and wiring, plumbing pipes and apparatus, and other ducts, conduits, cables, wire or pipe, which, regardless of location, serve more than one Townhouse or the Common Property, to the extent the same are not owned by utility companies.
- D. All paved and parking areas (except any garage that is part of a Townhouse), driveways, walkways, sidewalks and other means of ingress and egress.
- E. All trees, shrubs, plants, grass, and other landscaping and all well, sprinkler, and irrigation systems located on the Lot and Common Property.

8. COMMON EXPENSES.

All costs and expenses that may be duly incurred by the Association from time to time in operating, maintaining, improving, protecting, managing, and conserving the Common Property and all the Common Improvements and in carrying out its duties and responsibilities as provided by the Governing Documents shall constitute common expenses of the Association. Funds for the payment of the common expenses shall be collected by the Association through assessments against the Lots in accordance with the provisions of this Declaration. By way of illustration and not as a limitation, the common expenses shall include:

- A. Costs of operation, maintenance, repair, and replacement of the Common Property and the Common Improvements;
- B. Costs of management of THE ARBORS and administrative costs of the Association, including professional fees and expenses;
- C. Costs of water, gas, electricity and other utilities furnished to THE ARBORS that are not metered separately to individual Lots;
- D. Labor, material, and supplies used in conjunction with the Common Property and the Common Improvements;
- E. Costs of repairs or replacements of damages to the Common Property and the Common Improvements not covered by insurance;
- F. Salary of a manager or managers and their assistants, as shall be determined by the Board;

G. With regard to Common Property, premium costs of fire, windstorm, flood, and other property and liability insurance as provided herein;

H. Costs incurred by the Association, for additions, alterations, or improvements to the Common Property or to the Common Improvements or for the purchase of additional lands, leaseholds, or other possessor or use rights in lands or facilities, or memberships or other interests in recreational facilities, acquired for the benefit of all the Lot Owners;

I. Basic charges for central cable or central antenna television service, unless the provider of such service charges the Lot Owners directly;

J. Costs to maintain and repair the SWMS, including, but not limited to, work within retention and mitigation areas, drainage structures and drainage easements; and

K. Costs incurred by the Association in fulfilling its maintenance obligations under the terms of Section 9.

9. MAINTENANCE, REPAIRS, AND REPLACEMENTS.

The respective obligations of the Association and the Lot Owners to maintain, repair, and replace THE ARBORS property shall be as follows:

A. By the Association. The Association shall maintain, repair and replace:

- 1) The Common Property and all of the Common Improvements as defined herein;
- 2) All gas, electrical, mechanical, plumbing, fixtures and equipment serving the Common Property;
- 3) All grass, shrubs, trees and other landscaping and irrigation systems and all components thereof lying within the boundary lines of the Property; and
- 4) All components of the SWMS as permitted and approved by the SJRWMD.

The Association shall have the irrevocable right of access to each Lot and Townhouse from time to time during reasonable hours as may be necessary for the maintenance, repair, or replacement of the Common Improvements, and during any hours for performing such emergency repairs or procedures therein as may be necessary to prevent damage to the Common Improvements or to the Owner Improvements on another Lot. If the Board determines that any maintenance, repair, or replacement required to be made by the Association was necessitated by the carelessness, negligence, or intentional act of an Owner, the cost of such maintenance, repair, or replacement, together with a fifteen percent (15%) administrative charge, shall be a Specific Assessment against the Lot, which Assessment shall be payable within thirty (30) days after delivery of written notice of the Specific Assessment and secured by the lien for Assessments provided for in the Declaration. Neither the Association nor any Owner shall be liable for any damage to the property or person of any other Owner caused by water intrusion into a Townhouse through the Common Improvements or through another Townhouse when the cause of the water intrusion is the result of rain leakage, pipe leakage or bursting, overflow, or other similar source, unless the Association or Owner is guilty of gross negligence or willful and wanton misconduct.

B. By the Owners. Each Owner shall maintain, repair, and replace all of the Owner Improvements to the standards as may be promulgated by the Board from time to time.

In the event an Owner fails to fulfill his maintenance obligations as set forth above, the Association, at the discretion of the Board, may upon twenty (20) days prior written notice to the Owner, undertake such maintenance and make such repairs as the Board may deem necessary. The cost of such maintenance, repair, or replacement, together with a fifteen percent (15%) administrative charge, shall be a Specific Assessment against the Lot, which Specific Assessment shall be payable within thirty (30) days after delivery of written notice of the Assessment and secured by the lien for Assessments provided for in the Declaration.

10. INSURANCE, DESTRUCTION, AND RECONSTRUCTION.

A. By the Association. Except as otherwise provided herein, the Association, as agent for and on behalf of the Owners and their respective mortgagees, shall obtain and maintain fire and extended casualty coverage insurance with a responsible insurance company upon all of the insurable improvements of Common Property. The premium for such insurance shall be paid by the Association and shall be included in the assessment for Common Expenses. The Association shall have full authority as agent for the insureds to compromise and settle all claims against its insurance carrier and may institute legal proceedings for the collection thereof.

B. By the Owner. BY VIRTUE OF TAKING TITLE TO ANY LOT, EACH OWNER COVENANTS AND AGREES WITH ALL OTHER OWNERS OF LOTS AND WITH THE ASSOCIATION THAT EACH OWNER SHALL CARRY AND CONTINUOUSLY MAINTAIN COMPREHENSIVE CASUALTY INSURANCE WITH FIRE AND EXTENDED COVERAGE ON SUCH OWNER'S TOWNHOUSE SO THAT SUCH TOWNHOUSE IS FULLY INSURED AT ALL TIMES WITH COVERAGE EQUAL TO NOT LESS THAN THE FULL REPLACEMENT COST OF SUCH TOWNHOUSE. EACH OWNER ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION WILL NOT MAINTAIN ANY CASUALTY OR OTHER INSURANCE ON THE TOWNHOUSE OR ANY PART THEREOF. EACH OWNER FURTHER COVENANTS AND AGREES THAT IN THE EVENT OF LOSS OR DAMAGE TO THE TOWNHOUSE, THE OWNER SHALL PROCEED PROMPTLY TO REPAIR OR TO RECONSTRUCT THE DAMAGED TOWNHOUSE IN A MANNER CONSISTENT WITH THE ORIGINAL CONSTRUCTION AND OTHERWISE IN ACCORDANCE WITH THIS DECLARATION.

11. RESTRICTIONS UPON USE. No Owner, tenant, or other occupant of a Townhouse shall:

A. Use the Townhouse other than for residential purposes for one household (see Section 3E above);

B. Do any of the following without the prior written consent of the ARB: paint or otherwise change the appearance of any exterior wall, door, window, patio, deck, screened terrace, or any exterior surface; place any sunscreen, blind, or awning on any Townhouse window or door opening; place any draperies or curtains at the windows of a Townhouse without a solid, light-colored liner facing the exterior of the Townhouse; tint, color, or otherwise treat or apply anything to a window which will adversely affect the uniform exterior appearance of the Townhouses; plant any planting on the Lot; erect any exterior lights or signs; place any signs or

symbols in windows or on any exterior surface; erect or attach any structures or fixtures outside the Townhouse interior; make any structural additions or alterations (except the erection or removal of nonsupport carrying interior partitions wholly within the Townhouse) to any property in THE ARBORS (see also Section 4 above);

C. Cause or permit loud and objectionable noises or obnoxious odors to emanate from the Townhouse or other portion of the Property which may cause a nuisance to the occupants of other Townhouses, in the sole opinion of the Board;

D. Make any use of the Townhouse or Lot or other portion of the Property which violates any laws, ordinances, or regulations of any governmental body;

E. Fail to conform with and abide by the provisions of the Governing Documents;

F. Unless otherwise permitted by Federal or Florida law, erect, construct, or maintain any exterior radio or television mast, tower, pole, wire, aerial, antenna, dish or appurtenances thereto, nor any other exterior electronic or electric equipment, structures, devices or wires of any kind, nor any garbage or refuse receptacles, or any other equipment or structures on the exterior of any building or on any other portion of the Property, except with the prior written consent of the ARB. The ARB shall adopt standards for the design, size, placement and screening of permitted satellite dishes;

G. Obstruct the common way of ingress and egress to the other Lots or the Common Property;

H. Hang any laundry, garments, or unsightly objects from any place readily visible from outside the Townhouse;

I. Allow anything to remain on the Lot or Property which is unsightly or hazardous;

J. Allow rubbish, refuse, garbage, or trash to accumulate in an unsightly manner or fail to keep the Owner Improvements in the Townhouse or on the Lot in a clean, neat, well-maintained and sanitary condition at all times;

K. Permit trash or trash receptacles to sit by the curb or street for garbage pick up more than 24 hours prior to, nor more than 24 hours after, garbage pick up;

L. Allow any fire or health hazard to exist;

M. Interfere with the use of another Townhouse or Lot by its Owner or occupant or make use of any part of the Common Property in such a manner as to abridge the equal rights of the other Owners to its use and enjoyment;

N. Lease less than an entire Townhouse or lease a Townhouse for a period of less than thirty (30) days;

O. Mine, quarry or drill for minerals, oil, or gas within any portion of the Property (excepted from the foregoing shall be activities of the Declarant or Builder or the Association in dredging the water areas, creating land areas from water areas or creating, excavating or maintaining drainage or other facilities or easements, the installation of wells or pumps in compliance with

applicable governmental requirements, or for sprinkler systems for any portions of the Property);

P. Park or keep any boat, trailer, semitrailer, house trailer of any kind, camper, mobile home, motor home, bus, pickup truck (defined as any vehicle with a cargo bed that is not covered by the vehicle roof) or disabled, inoperative or unlicensed vehicle of any kind, unless completely stored inside a garage attached to the Townhouse, except that private vans, SUV's, station wagons and automobiles of the Owners, occupants and guests of the Townhouse, bearing no commercial signs or equipment, may be parked in the driveway or parking area on the Lot; and except further that other vehicles may be parked in such driveway or parking area during such times necessary for service or maintenance of the Townhouse or Lot, or pickup and delivery service, provided that permission for such parking is granted by the Owner of the Lot solely for the purpose of such service; no motor vehicle of any kind shall be parked anywhere other than on paved or other areas designated for that purpose or in garages; parking on lawns or landscaped areas is prohibited; parking of any vehicle of any kind on streets overnight is prohibited;

Q. Allow any animals to be kept on a Lot, other than customary family pets such as dogs or cats, caged birds, and small marine animals in aquariums, provided that, in the case of dogs and cats no more than two (2) total (i.e. 2 cats or 2 dogs or 1cat and 1 dog) such animals are kept. Animals may not be kept, bred, or maintained for any commercial purposes or in any manner which creates a nuisance to any other Owner. All pets shall be kept in conformity with rules and regulations promulgated from time to time by the Board, and in the event any animal becomes a nuisance to other Owners, in the sole opinion of the Board, the owner of such animal, upon written notice, may be required to remove the animal from the Property;

R. Allow any authorized pet outside a Townhouse except on a leash accompanied by the Owner, occupant or guest; the pet's owner must clean up after their pets and prevent the pet from disturbing the Property or other Owners;

S. Discharge saline or other regenerating solution from water softening equipment or any other chemicals into any street, easement, stormwater drain, or portion of the Property so as to harmfully affect any landscaping or plants or pollute the SWMS;

T. Construct, erect, place or maintain any basketball goals, hoops, backboards or nets, whether permanent or portable anywhere on the exterior of the Townhouse;

U. Construct, erect, place or maintain any in-ground or above-ground swimming pool, spa, hot tub or similar bathing or recreational device anywhere on the exterior of the Townhouse;

V. Construct, erect, place or maintain any storage shed or other outbuilding on the Lot except wholly within the attached garage;

W. Erect or display any signs, banners, billboards or advertisements of any kind anywhere within the Property, including without limitation those of politicians, contractors or subcontractors including in windows and on motor vehicles with the following exceptions: one (1) professionally-made signs of customary dimensions (not to exceed 3' by 4') advertising the Townhouse and Lot for sale or lease; a sign of reasonable size provided by the contractor for security services within ten (10) feet of any entrance to the Townhouse; any sign, banner,

billboard or advertisements used or erected by the Declarant or Builder; any directional or entry signs installed by the Declarant or Builder; and any signs required by law.

12. ASSESSMENTS.

A. Regular Assessments. Before the beginning of each fiscal year, the Board shall prepare a budget of the estimated common expenses which it expects to incur for the coming year, including any contributions to be made to reserves pursuant to Section 12 for periodic major maintenance, repair and replacement of items that the Association maintains as a common expense. The budget shall include, as a separate line item in the operating expense portion of the budget, the estimated cost of routine maintenance of the SWMS and, as a separate line item in the reserve portion of the budget, a contribution to a reserve fund for periodic major maintenance, repair and replacements to the Common Areas as provided in this Section 12, including, without limitation, contributions to reserves for the private roads of Tract A and the SWMS. The budget shall separately reflect the anticipated sources and estimated amounts of funds to cover the common expenses, including any surplus or deficit to be applied from prior years, assessment income, any fees charged for use of recreational amenities, and any other non-assessment income.

The Board shall send a summary of the proposed budget and notice of the Regular Assessment to be levied pursuant to such budget to each Owner at least thirty (30) days prior to the effective date of the budget. The budget and assessment shall automatically take effect on such date unless disapproved at a meeting by Members representing seventy-five percent (75%) of the total Class A votes and by Declarant as long as there is a Class B Member. There shall be no obligation to call a meeting of the Members for the purpose of considering the budget except upon petition of the Members as provided for in the By-Laws. Any such petition must be presented to the Board within fourteen (14) days after mailing of the budget and notice of the Regular Assessment.

If any proposed budget is disapproved, or if the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

The Board may revise the budget and adjust the Regular Assessment from time to time during the year, subject to the notice requirements set forth above and applicable law.

B. Budgeting for Reserves. The Board shall prepare and periodically review separate reserve budgets for the Common Property which take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost of capital items under each budget. The Board shall include in the Common Expense budget adopted pursuant to this Section 12, a capital contribution to fund reserves in an amount which the Board, in the exercise of its business judgment, deems sufficient to meet the projected needs under each budget with respect to both amount and timing by annual contributions over the budget period.

Reserve funds shall be held in a separate account or accounts from the operating and other funds of the Association. The reserve funds held in each account may be expended only for major maintenance, repair, or replacement of those assets covered by the reserve budget pursuant to which they were collected. Subject to such limitation, the Board may adopt resolutions regarding the expenditure of any reserve funds including, without limitation, policies designating the nature of assets for which reserve funds may be expended. Neither the

Association membership nor the Board shall adopt, modify, limit, or expand such policies without Declarant's prior written consent until Turnover.

C. Special Assessments. In addition to other authorized assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Except as otherwise specifically provided in this Declaration, any Special Assessment shall require the affirmative vote or written consent of a majority of the Board, and the affirmative vote or written consent of Declarant, prior to Turnover. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

D. Specific Assessment. The Association may levy Specific Assessments against one or more particular Lots to cover costs incurred in bringing a Lot into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Lot, their agents, contractors, employees, licensees, invitees, or guests, including, without limitation, legal costs.

E. Assessment Rate; Commencement of Assessments; Time of Payment. The obligation to pay assessments commences as to each Lot on the first day of the month following: (a) the month in which the Lot is made subject to this Declaration, or (b) the month in which the Board first determines a budget and levies assessments pursuant to this Article, whichever is later. Regular and Special Assessments for common expenses shall be allocated equally among all Lots subject to assessment. The first annual Regular Assessment levied on each Lot shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Lot.

Owners shall pay assessments in the manner and on the dates the Board establishes. The Board may require advance payment of assessments at closing of the transfer of title to a Lot and may impose special requirements for Owners who have failed to pay, on a timely basis, two or more payments, in any 12 month period, of any nature, due under the Governing Documents. If the Board so elects, assessments may be paid in quarterly or monthly installments. Unless the Board otherwise provides, the Regular Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his or her Lot, the Board may require that the outstanding balance on all assessments be paid in full immediately.

F. Obligation for Assessments.

1) Personal Obligation. Each Owner, by accepting a deed or entering into a recorded contract of sale for any Lot, covenants and agrees to pay all assessments levied in accordance with the Governing Documents for each Lot owned. All assessments, together with interest (computed from the assessment's due date at a rate of eighteen percent (18%) per annum or the maximum rate permitted by law, whichever is less), late charges as determined by Board resolution, and legal costs, shall be the personal obligation of each Owner and a lien upon each Lot until paid in full. Upon a transfer of title to a Lot, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance.

The Board's failure to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner

from the obligation to pay assessments. In such event, each Owner shall continue to pay Regular Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

No Owner is exempted from liability for assessments by non-use of Common Property, abandonment of his or her Lot, or any other means. The obligation to pay assessments is a separate and independent covenant by each Owner. No reduction or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some required function, or for inconvenience or discomfort arising from making repairs or improvements, or for any other reason.

Following a written request, the Association shall furnish to any Owner liable for any type of assessment a certificate in writing signed by an Association officer setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

2) Declarant's Option to Fund Budget Deficits. Notwithstanding anything to the contrary contained in this Declaration, to the extent permitted by Florida law, while there is a Class B Member, Declarant may satisfy the obligation for assessments on Lots which it owns either by paying assessments in the same manner as any other Owner or by funding the budget deficit. The budget deficit is the difference between (i) the amount of assessments levied on Class A Member-owned Lots, plus any other income received during the fiscal year, and (ii) the amount of the Association's actual expenditures during the fiscal year, excluding contributions to reserves and excluding special assessments arising as a result of any unusual loss or liability. Unless Declarant otherwise notifies the Board in writing at least thirty days (30) before the beginning of the fiscal year, Declarant shall continue paying on the same basis as during the previous fiscal year.

Regardless of Declarant's election, Declarant's assessment obligations may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these, the value of which shall be reasonably determined by Declarant. After Turnover, Declarant shall pay assessments on Lots which it or its Builders own in the same manner as any other Owner.

G. Lien for Assessments. Every Owner, by acceptance of a deed or recorded contract of sale to any Lot, is deemed to covenant and agree to pay the assessments provided in this Declaration. All assessments, together with interest at a rate not to exceed the highest rate allowed by Florida law as computed from the date the delinquency first occurs, late charges, processing or other fees, costs, expenses and reasonable attorney's fees and all other costs of collection, shall be a charge on the land and shall be a continuing lien upon the Lot and all improvements thereon upon which each assessment is made. The lien of every such assessment, together with interest and late charges thereon and costs of collection thereof as herein provided, shall attach and become a charge on each Lot and all improvements thereon upon the recording of this Declaration. In the event any assessment is not paid within thirty (30) days after the same is due, the Association shall have the right to file a claim of lien in the Public Records of Brevard County, Florida. The lien may be enforced by the Association by foreclosure suit in the same manner as a mortgage or mechanics lien foreclosure or in such other manner as may be permitted by law. All such late charges, interest, costs, and fees shall

be secured by the lien of the assessment. Such lien shall be superior to all other liens, except (a) the lien or charge of any recorded first Mortgage (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value, and (b) other liens or encumbrances which by law would be superior. The Association's lien may be enforced by suit, judgment, and/or judicial or nonjudicial foreclosure, unless prohibited by applicable law.

At a foreclosure sale, the Association may bid for the Lot and acquire, hold, lease, mortgage, and convey the Lot. The Association may sue for unpaid assessments and other charges without foreclosing or waiving its assessment lien.

Sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any subsequent assessments. However, the sale or transfer of any Lot pursuant to foreclosure by the first Mortgagee (or pursuant to a deed in lieu of foreclosure to a first mortgage) extinguishes the lien relating to any amounts due prior to the Mortgagee's foreclosure or the deed in lieu of foreclosure. The purchaser of such foreclosed Lot shall not be personally liable for assessments on such Lot due prior to the foreclosure sale. Such unpaid assessments shall be a Common Expense collectible from Owners of all Lots subject to assessment under Section 12, including, without limitation, such purchaser, its successors and assigns.

Notwithstanding the above, while the Association owns a Lot: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Lot had it not been acquired by the Association.

H. Exempt Property. The following property shall be exempt from payment of all Assessments:

- 1) All Common Area and other portions of the Property which are not Lots; and
- 2) Any property dedicated to and accepted by any governmental authority or public utility.

I. Initial Assessment. The Association hereby establishes an initial assessment applicable to each Lot in such amount as determined in the Board's discretion, not to exceed one hundred percent (100%) of the full Regular Assessment per Lot levied for the year in which the Initial Assessment is due and payable. The Initial Assessment shall become due and payable upon first occupancy of such Lot as a place of residence by a Class A Member or upon the first conveyance of the Lot with a completed dwelling, whichever occurs first. Such Initial Assessment may be used to fund the Association's initial start up costs and other operating expenses or to help fund reserves, in the Board's discretion. The Initial Assessment may be referred to by another name, such as Working Capital Contribution, Working Fund Contribution or some other name, in marketing and disclosure materials.

J. Continuing Working Capital Assessment. Upon each acquisition of record title to a Lot by any subsequent Owner after the Initial Assessment described in Section 12 above, an assessment in such amount as determined in the Board's discretion, not to exceed one hundred percent (100%) of the full Regular Assessment per Lot levied for the year in which the Continuing Working Capital Assessment is due and payable shall be made by or on behalf of each purchaser to the working capital of the Association. This contribution shall be in addition

to, not in lieu of, any Regular Assessments and shall not be considered an advance payment of any assessment.

13. RIGHTS OF INSTITUTIONAL FIRST MORTGAGEES.

All savings and loan associations, banks, credit unions, mortgage bankers, mortgage brokers, insurance companies, pension funds having assets in excess of \$25 million, agencies of any state government, and agencies of the United States Government (including the Veterans Administration, the Federal Housing Administration, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation), and their subsidiaries, affiliates, successors and assigns, holding first mortgages upon any of the Lots are herein referred to as "institutional first mortgagees." The termination of the provisions of this Declaration by vote of the Owners, and any amendments to this section of this Declaration, shall require the written consent of institutional first mortgagees holding at least fifty-one percent (51%) of such first mortgages, except for amendments by Declarant pursuant to Section 23. Such consent shall not be unreasonably withheld.

14. RIGHTS OF Declarant.

The Declarant hereby reserves the right to appoint, remove, and replace from time to time the directors of the Association in accordance with the provisions of the Articles of Incorporation and By-Laws. Declarant may terminate such right by relinquishing control of the Board to the Owners at any time. As long as Declarant or Builder holds ownership of any Lot in THE ARBORS, this Declaration shall not be amended nor the provisions of this Declaration terminated without the written consent of Declarant. At the time of recording this Declaration, construction of all of the Townhouses and improvements in the subdivision has not been completed. Declarant and Builder reserve all rights and easements necessary or desirable with respect to the Property to complete such construction and to effect the sale or lease of all of the Lots. As long as Declarant or Builder holds ownership of one or more Lots in the subdivision, Declarant or Builder shall have the right to exhibit such signs and sales paraphernalia on the Property as may be desirable to effect sales and may use one or more of the Lots and the Common Property for offices, models, and other uses appropriate for the promotion of sales and for the development and management of the Property. Declarant reserves the ownership of all central television antenna signal distribution wires, lines, and equipment that are installed by Declarant or Builder within the boundaries of the subdivision (the "CATV facilities") and the right to convey the CATV facilities to, or authorize the use of the CATV facilities by, such cable television company as Declarant may deem appropriate. If requested by the Association, the provision of basic cable television services by such company shall be through contract with the Association on behalf of the Owners.

15. EASEMENTS.

The respective rights and obligations of the Owners, the Association, Declarant, Builder, and others concerning easements affecting the subdivision property shall include the following:

A. Reserved by Declarant. Declarant hereby reserves for the benefit of itself, its successors and assigns, perpetual easements for: (1) the installation, construction, repair, maintenance, and replacement of lines, pipes, wells, drains, cables, equipment, apparatus, structures, roads, driveways, and other improvements, including without limitation, water, sewer, drainage, irrigation, fire protection, electricity, telephone, cable television, and trash

disposal, over, under, through, and across the Property; and (2) ingress and egress by pedestrians, runners, bicycles, golf cars, automobiles, and other vehicles over, under, through, and across the Common Property for the purpose of obtaining access to the subdivision property, together with the right to construct, maintain, and replace such roads, walkways, bike paths, and other improvements as may be reasonably appropriate for the use and enjoyment of such easements. Declarant may assign and convey any of the foregoing easements to such persons or entities as Declarant may deem appropriate for the use of such persons or group of persons as may be designated and upon such terms as may be established by Declarant. There is hereby created, declared, granted and reserved for the benefit of Declarant, the right to grant, assign and transfer the same to Declarant or Builder sales agents and sales representatives. Declarant and Builder are granted an easement for construction activities upon Lots and an easement for marketing activities and signs on Lots and for the maintenance on Lots from time to time as model centers in which and from which Declarant and Builder, their authorized sales agents and sales representatives may engage in marketing and information activities on a temporary basis during the period of the development of and construction within the Property ("Construction and Marketing Easements"), provided, however, that such marketing activity shall be conducted from and within buildings constructed as Townhouses which are temporarily used for such activities and which are thereafter to be sold, used and occupied as Townhouses. The location of such model centers may be changed from time to time by Declarant, in its sole and absolute discretion.

B. Granted to Lot Owners. Each Owner is hereby granted a nonexclusive perpetual easement: (1) over and across the paved portions of the Property for ingress and egress to and from his respective Lot; and (2) for any encroachments by his Townhouse on an adjoining lot which may exist now or in the future by virtue of overhangs, inaccuracies in construction or settlement or movement of the Townhouse, or otherwise, which encroachments shall be allowed to remain undisturbed until they no longer exist.

C. Granted to Utilities. There is hereby granted to all public and private utility companies furnishing utility services to the subdivision a perpetual nonexclusive easement for the construction, installation, maintenance, repair, and replacement of the equipment, structures, and other improvements by which such utility services are respectively provided over, under, across, and through such portion of the Property as may be reasonably necessary therefor. If required by the Association or the Declarant, such easement rights shall be reduced to a separate writing containing a legal description and limitations acceptable to the Association or to the Declarant.

D. Granted to and by the Association. There is hereby granted to the Association a perpetual nonexclusive easement across each Lot and through each Townhouse for the purpose of maintaining the Common Improvements. The Association shall have the right to grant easements under, over, across, and through the subdivision property to such persons or entities and for such purposes as the Board may deem appropriate by recording in the Public Records of Brevard County, Florida, an instrument duly executed by the president or vice president of the Association.

E. Association Right of Entry. The Association shall have the right, but not the obligation, to enter onto any Lot for emergency, security, and safety purposes, which right may be exercised by the Board, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after

notice to the Owner. This right of entry shall include the right of the Association to enter onto any Lot to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition upon request by the Board.

F. Wall, Entrance Feature and Landscape Easements. There is hereby created, declared, granted and reserved for the benefit of Declarant and the Association an easement over and upon all wall, entrance feature and landscape easement areas shown on any plat of the Property together with an easement and license to enter upon such easement areas for the purposes of erecting, constructing, installing, inspecting, maintaining, repairing and replacing any and all entrance features, screening walls or fences, and the installation and irrigation of any landscaping therein, which may be required by the County and/or deemed to be necessary or desirable by Declarant or the Association.

G. Drainage Easements. The Association shall have a perpetual, non-exclusive easement over all areas of the SWMS for access to operate, maintain or repair such system. This easement shall provide the Association with the right to enter upon any portion of a Lot which is adjacent to or a part of the SWMS, at a reasonable time and in a reasonable manner, to operate, maintain or repair the SWMS as required by the SJRWMD permit. In addition, the Association shall have a perpetual, non-exclusive easement for drainage over the entire SWMS. No person shall alter the drainage flow of the SWMS, including buffer areas or swales, without the prior written approval of the SJRWMD.

H. Additional Easements. Declarant reserves the right to impose further restrictions and to grant or dedicate additional easements and rights-of-way over the property owned by Declarant. In addition, Declarant hereby reserves the right to grant easements and rights-of-way over, under and through the Common Areas so long as Declarant shall own any portion of the Property. The easements and rights-of-way granted by Declarant shall not structurally weaken any improvements or unreasonably interfere with enjoyment of the Common Areas.

I. Telecommunications Easement. In order to make available to Owners state of the art telecommunication facilities and services, Declarant hereby reserves for itself and its Builder and assigns exclusive Communications Easement over the Common Property, which easement will be made available as necessary to service providers designated by the Declarant who will provide certain telecommunication services to the Property. The Association acknowledges the Communication Easement and its applicability to Common Property now existing and which may be established from time to time.

J. Party Wall and Other Encroachments. It is contemplated that each Townhouse shall be separated from other Townhouses within a townhouse building by a party wall constructed so that the midpoint of such party wall is located on the boundary line between the adjoining Townhouses. If, however, due to conditions in the field or other causes, the midpoint of such party wall is not so located, then the Owner of the Lot upon which the party wall encroaches shall be deemed to have conveyed a perpetual easement to the adjoining Owner for any encroachment of such improvements upon the affected Lot. In addition, each Owner shall be deemed to have conveyed to the Owner of any adjoining Lot, easements of support and for utilities in and through such party wall.

K. Maintenance Easement. A Maintenance Easement is hereby reserved for the Association over the Lots for the Association to perform maintenance on the Common Improvements and any other maintenance responsibilities.

L. Extent of Easements. The rights and easements of enjoyment created in this Section shall be subject to the following:

1) The right of the Declarant or the Association, in accordance with the Articles of Incorporation and By-Laws, to borrow money from any lender for the purpose of improving and/or maintaining the Common Property and providing services authorized herein and, in aid thereof, to mortgage said Property.

2) The right of the Association to suspend the rights and easements of enjoyment of any Member for any period during which any Assessment remains unpaid, and for any period, not to exceed sixty (60) days, for any infraction of its published rules and regulations, it being understood that any suspension for either non-payment of any Assessment or breach of any rules and regulations of the Association shall not constitute a waiver or discharge of the Member's obligation to pay the Assessment.

3) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility that may be situated on or in the Common Property.

4) The Board shall have the power to place (and remove after notice) any reasonable restrictions upon the private streets and roads including, but not limited to, the maximum and minimum speeds of vehicles using said roads, all other necessary traffic and parking regulations, and the maximum noise levels of vehicles using said roads; provided, however, that no such restrictions may be inconsistent with the terms or provisions of any agreement between the Association and the County Sheriff pertaining to the enforcement of traffic laws within the Property. The fact that such restrictions on the use of such roads shall be more restrictive than the laws of any state or local government having jurisdiction over the Property shall not make such restrictions unreasonable.

5) The right of the Association to give, dedicate, mortgage or sell all or any part of the Common Property (including leasehold interest therein) to any public agency, authority, or utility or private concern for such purposes and subject to such conditions as may be determined by the Association provided that no such gift or sale or determination for such purposes or conditions shall be effective unless the same shall be authorized by two-thirds (2/3) of the votes of Members of the Association, and unless written notice of the meeting and of the proposed agreement and action thereunder is sent at least thirty (30) days prior to such meeting to every Member. A true copy of such resolution together with a certificate of the results of the vote taken thereon shall be made and acknowledged by the President or Vice-President and Secretary or Assistant Secretary of the Association, and such certificate shall be annexed to any instrument or dedication or transfer affecting the Common Property, prior to the recording thereof. Such certificate shall be conclusive evidence of authorization by the Members.

16. RULES AND REGULATIONS; FINING.

The Association may adopt, rescind and amend reasonable rules and regulations concerning the appearance and use of the Property, including Lots, Townhouses and the Common Property. The Association shall provide copies of the rules and regulations and amendments thereto to all Owners. The rules and regulations shall be binding on all Owners after such copies are furnished. No Owner, invitee, or person residing within the property may

violate the Association's rules and regulations concerning the use of the Property. All Owners at all times will do all things reasonably necessary to comply with such rules and regulations. Without limitation, any rule or regulation will be deemed "promulgated" when adopted by Board resolution and mailed to all Owners at the address shown on the Association's books.

The Association may impose reasonable monetary fines and other sanctions for violations of the Governing Documents which may be collected by an action against the Owner filed in the County Court of Brevard County, Florida. The Association's fining procedures for enforcing its Governing Documents shall provide the affected Owner with reasonable prior notice and a reasonable opportunity to be heard, in person and through representatives of the Owner's choice.

17. MANAGEMENT AGREEMENT.

The Association, acting through its Board, is authorized to enter into an agreement with any person or legal entity, including Declarant or an affiliated company of Declarant, to act as managing agent to handle the administrative affairs and maintenance obligations of the Association upon such terms and conditions as the Board may deem to be in the best interests of the subdivision and the Owners. The Board shall, however, retain at all times the power to adopt budgets, levy assessments, promulgate rules and otherwise determine all matters of a nonministerial character.

18. FENCING.

No fencing of any kind shall be permitted on the Lots except for privacy fencing not exceeding six (6) feet in height around patios located to the rear of Townhouses. Such privacy fencing may be erected only after the prior written approval of the ARB as required by Section 4 above.

19. STORMWATER MANAGEMENT SYSTEM; CONTRIBUTION FOR SWMS MAINTENANCE.

The Declarant has caused or will cause to be constructed a SWMS for the Property as permitted by the SJRWMD, including, but not limited to, drainage canals, lakes, and drainage retention/detention ponds. At Declarant's option, all permits or other approvals associated with the SWMS, may be transferred or assigned to the Association, and the Association shall be obligated to accept such transfer or assignment, as the operating entity with respect to such permits or approvals, and the entity ultimately responsible for all aspects of compliance therewith. It is the intent that the Association shall ultimately and indefinitely be responsible for the maintenance, operation and repair of the SWMS. Maintenance of the SWMS shall mean the exercise of practices which allow the system to provide drainage, water storage, conveyance or other stormwater management capabilities as permitted by the SJRWMD. Any repair or reconstruction of the SWMS shall be as permitted, or if modified, as approved by the SJRWMD.

20. EPA COMPLIANCE.

Each Owner agrees to comply with all EPA rules and regulations regarding the use of the Lot and any discharges emanating from or caused by the Owner. Each Owner

acknowledges that the Declarant or Builder will not bear responsibility for compliance in respect to any Lot upon the sale of such Lot by Declarant or Builder to the initial Owner.

21. REMEDIES FOR DEFAULT.

In addition to the remedies provided by statute and common law and the remedies elsewhere provided herein, a default by any Owner in complying, with the provision and requirements of the Governing Documents shall entitle the Association to injunctive relief or money damages or both. In any such legal or equitable action, the prevailing party shall be entitled to recover its costs and expenses, including reasonable attorney's fees for pretrial, trial, and appellate proceedings.

The SJRWMD shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation and repair of the SWMS.

22. DURATION.

The provisions of this Declaration shall run with and bind all of the Property and shall inure to the benefit of and be enforceable by Declarant, the Association, and each Owner, and their respective legal representatives, heirs, successors, and assigns.

23. AMENDMENTS.

The provisions of this Declaration may be amended by affirmative vote of the Owners of two-thirds (2/3) of the Lots except that provisions relating to sharing of common expenses, rights of Declarant, rights of institutional first mortgagees, and voting rights of Owners may be amended only with the written consent of all persons or entities adversely affected thereby. Amendments to the Association's Articles of Incorporation and By-Laws may be made in the manner provided therein and shall not be subject to the requirements set forth herein for amendments to the provisions of this Declaration.

Except for amendments by Declarant as herein provided no amendment shall be effective unless it is in writing, executed by the president or vice president and attested by the secretary of the Association with the formalities required for a conveyance of real property in the State of Florida, and recorded in the Public Records of Brevard County, Florida. Any amendment so executed and recorded shall be prima facie evidence that the amendment was duly adopted in accordance with the requirements of this Declaration and the Association's Articles of Incorporation and By-Laws. It shall not be necessary for the individual Owners or holders of recorded liens thereon to join in the execution of any amendment, except as specifically provided herein.

Until Turnover, Declarant shall have the unilateral right and irrevocable power to amend this Declaration. Any such amendment shall be executed by Declarant, and the joinder or further consent of the Association or individual Owners or holders of recorded liens or other interests therein, including institutional first mortgagees, shall not be required.

Any amendment which alters any provision relating to the SWMS must have the prior approval of the SJRWMD.

24. BINDING EFFECT.

All provisions of this Declaration shall be enforceable as equitable servitudes and shall run with the land and shall be in full force and effect until a particular provision is duly amended or until this Declaration is duly revoked and terminated. Any gender used herein shall include all genders and legal entities; the plural number shall include the singular and the singular shall include the plural.

25. SEVERABILITY.

If any provision of this Declaration, the Articles of Incorporation, or the By-Laws or any section, sentence, clause, phrase or word thereof, or the application thereof in any circumstance, is held invalid by a court of competent jurisdiction, the validity of the remainder of such instruments and of the application thereof in other circumstances shall not be affected thereby.

THE ARBORS Dec Draft 2
7-18-05

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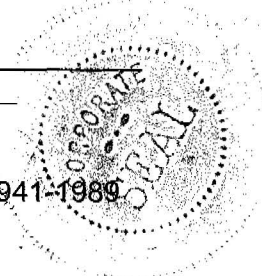
IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed under seal this 28th day of April, 2006.

Signed, sealed and delivered in the presence of:

Marilyn M Pruss
Print Name: Marilyn M PRUSS
Mary J Quinn
Print Name: Mary J Quinn

CASCADES COMMUNITY DEVELOPERS, INC.

By: [Signature]
Name: (Print) Robert M. Kush
Title: President
Address: P.O. Box 411989
Melbourne, FL, 32941-1989



(Corporate Seal)

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 28th day of April, 2006, by Robert M. Kush, the President of Cascades Community Developers, Inc., a Florida corporation, who acknowledges that he executes the foregoing on behalf of the corporation.

He is personally known to me.



Marilyn M Pruss
(Print Name) Marilyn M Pruss
NOTARY PUBLIC, State of Florida
Commission # DD 325422
My Commission Expires: June 2, 2008

JOINER AND CONSENT OF OWNER

MERCEDES HOMES, INC., a Florida corporation ("Mercedes"), being the Owner of a portion of the real property described in **Exhibit "A"** of the Declaration of Covenants, Conditions and Restrictions for The Arbors ("Declaration") to which this Joinder and Consent is attached, hereby joins in the Declaration for the purpose of submitting such real property to the Declaration. Mercedes hereby agrees that all right, title and interest of Mercedes and its successors and assigns in and to the real property described in said **Exhibit "A"** shall forever be subject and subordinate to, and bound by, the Declaration.

Signed, sealed and delivered
in the presence of:

MERCEDES HOMES, INC.,
a Florida corporation

Marilyn M Pruss
Signature of witness

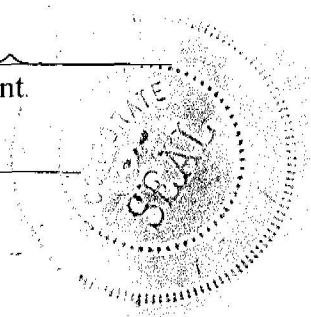
By: Keith Buescher
Keith Buescher, President.

Print Name: Marilyn M Pruss

Date: 4/28/06

Mary J Quinlivan
Signature of witness

Print Name: Mary J Quinlivan



STATE OF FLORIDA)
)
COUNTY OF BREVARD)

The foregoing instrument was acknowledged before me this 28 day of April, 2006, by Keith Buescher, as president of **MERCEDES HOMES, INC.**, a Florida corporation, on behalf of the corporation. He/She is personally known to me OR has produced _____ as identification.

NOTARY SEAL:



Marilyn M Pruss
NOTARY PUBLIC—STATE OF Florida

No.: DD 325422

Print Name: Marilyn M Pruss
Commission

My Commission Expires: June 2, 2008

SUBORDINATION AND CONSENT OF MORTGAGEE

KNOW ALL PERSONS BY THESE PRESENTS THAT for good and valuable consideration, the receipt and sufficiency of which is acknowledged by REAL ESTATE INVESTMENT VENTURES, LLC, a Florida limited liability company ("Mortgagee"), whose address is 6767 North Wickham Road, Suite 500, Melbourne, Florida 32940, in its capacity as the owner and holder of the following instruments (collectively, "Security Documents and Interests") granted to Mortgagee by Mercedes Homes, Inc., a Florida corporation, whose address is 6767 North Wickham Road, Suite 500, Melbourne, Florida 32940:

1. Spreader Agreement dated November 17, 2005 and recorded on November 18, 2005 in Official Records Book 5567, Page 824, Public Records of Brevard County, Florida;
2. Mortgage, Assignment of Rents and Security Agreement (Brevard County, Florida), dated January 31, 2005, and recorded on February 2, 2005 in Official Records Book 5417, Page 84, Public Records of Brevard County, Florida; and
3. Any modification or amendment of any of the foregoing instruments, any documents and interest incidental thereto.

securing a Revolving Promissory Note in the original stated principal amount of Fifty Million and No/100 Dollars (\$50,000,000.00), dated January 31, 2005, and encumbering a portion of the real property described in Exhibit "A" attached to the foregoing Declaration of Covenants, Conditions and Restrictions for The Arbors ("Declaration"), hereby consents to the Declaration and subordinates the lien and encumbrance of the Security Documents and Interests, as the same may be further amended from time to time, to the Declaration. Mortgagee hereby agrees that all right, title and interest of Mortgagee and its successors and assigns in and to the real property described in said Exhibit "A" shall forever be subject and subordinate to, and bound by, the Declaration.

IN WITNESS WHEREOF, Mortgagee has executed this Subordination and Consent on this 28th day of April, 2006.

WITNESSES:

Marilyn M Pruss
 Print Name: Marilyn M. PRUSS

Mary J Quilivan
 Print Name: Mary J Quilivan

**REAL ESTATE INVESTMENT
 VENTURES, LLC**, a Florida limited
 liability company

By: [Signature]
 Robert M. Kush, Manager

STATE OF FLORIDA)
)
COUNTY OF BREVARD)

The foregoing instrument was acknowledged before me this 28th day of April, 2006, by Robert M. Kush as the Manager of **REAL ESTATE INVESTMENT VENTURES, LLC**, a Florida limited liability company, on behalf of the company. He/She is personally known to me OR has produced _____ (type of identification) as identification.

NOTARY SEAL:

Marilyn M Pruss
NOTARY PUBLIC, State of Florida



Print Name: Marilyn M Pruss
Commission No.: DD325422
My Commission Expires: June 2, 2008

SUBORDINATION AND CONSENT OF MORTGAGEE

KNOW ALL PERSONS BY THESE PRESENTS THAT for good and valuable consideration, the receipt and sufficiency of which is acknowledged by BANK OF AMERICA, N.A., a national banking association, whose address is 250 Park Avenue South, Suite 400, Winter Park, Florida 32789, in its individual capacity as the owner and holder of the following instruments and as Administrative Agent and Letter of Credit Issuer (collectively, "Security Documents and Interests") granted to Mortgagee by Mercedes Homes, Inc., a Florida corporation, whose address is 6767 North Wickham Road, Suite 500, Melbourne, Florida 32940:

1. Amended and Restated Mortgage, Assignment of Rents and Security Agreement dated February 24, 2006 and recorded March 3, 2006 in Official Records Book 5611, Page 5122, Public Records of Brevard County, Florida;
2. Collateral Assignment of Development Contracts, Permits and Related Rights recorded March 3, 2006 in Official Records Book 5611, Page 5163, Public Records of Brevard County, Florida;
3. Master Collateral Assignment of Purchase and Sale Contracts and Deposits and Related Rights recorded March 3, 2006 in Official Records Book 5611, Page 5175, Public Records of Brevard County, Florida; and
4. UCC-1 Financing Statement, recorded on March 3, 2006 in Official Records Book 5611, Page 5187, Public Records of Brevard County, Florida

securing that certain Loan Agreement in the original stated principal amount of Five Hundred Fifty Million and No/100 Dollars (\$550,000,000.00), and encumbering a portion of the real property described in **Exhibit "A"** attached to the foregoing Declaration of Covenants, Conditions and Restrictions for The Arbors ("Declaration"), hereby consents to the Declaration and subordinates the lien and encumbrance of the Security Documents and Interests, as the same may be further amended from time to time, to the Declaration. Mortgagee hereby agrees that all right, title and interest of Mortgagee and its successors and assigns in and to the real property described in said **Exhibit "A"** shall forever be subject and subordinate to, and bound by, the Declaration.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Mortgagee has executed this Subordination and Consent on this 26th day of APRIL, 2006.

WITNESSES:

BANK OF AMERICA, N.A.

a national banking association, individually and as Administrative Agent and Letter of Credit Issuer

Melinda Plakiotis

Print Name: Melinda Plakiotis

By: [Signature]

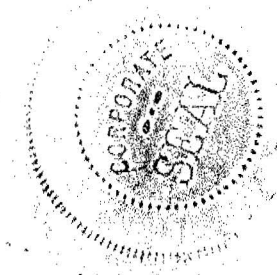
Print Name: M. TRAVIS WILLIAMS

[Signature]
Print Name: MARY CYNTHIA KROC

Title: VICE PRESIDENT

STATE OF FLORIDA)

COUNTY OF ORANGE)



The foregoing instrument was acknowledged before me this 26th day of APRIL, 2006, by M. TRAVIS WILLIAMS as the VICE PRESIDENT (title) of BANK OF AMERICA, N.A., a national banking association, on behalf of the said bank. He/She is personally known to me OR has produced _____ (type of identification) as identification.

NOTARY SEAL:



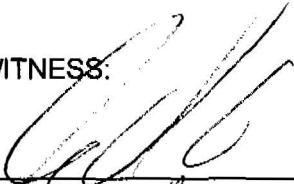
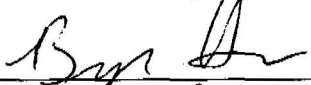
[Signature]
NOTARY PUBLIC, State of Florida

Print Name: MARY CYNTHIA KROC
Commission No.: DD 401217
My Commission Expires: MARCH 1, 2009

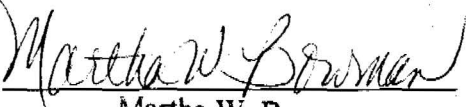
MORTGAGEE CONSENT

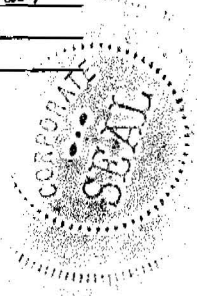
The undersigned, COMERICA BANK, a Michigan banking corporation, the holder of that certain Mortgage and Security Agreement recorded in Official Records Book 5418, Page 8222, Public Records of Brevard County, Florida and that certain Assignment of Rents, Leases and Profits recorded in Official Records Book 5418, Page 8247, Public Records of Brevard County, Florida, and that certain UCC-1 Financing Statement recorded in Official Records Book 5445, Page 6583, Public Records of Brevard County, Florida, hereby consents to the execution of the foregoing DECLARATION OF COVENANTS AND RESTRICTIONS FOR THE ARBORS.

WITNESS:


Print Name: Angela Vuolo

Print Name: Bryan Horcher

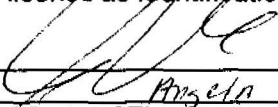
COMERICA BANK, a Michigan banking corporation

By: 
Name: Martha W. Bowman
Title: Vice President
Comerica Bank
Date: May 5, 2006



STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 5 day of May, 2006 by Martha W. Bowman as V.P. of COMERICA BANK, a Michigan banking corporation, on behalf of the corporation. Said person (check one) [] is personally known to me or [] produced a Florida drivers' license as identification.


Print Name: Angela Vuolo
Notary Public, State of Florida
Commission No.:
My Commission Expires:

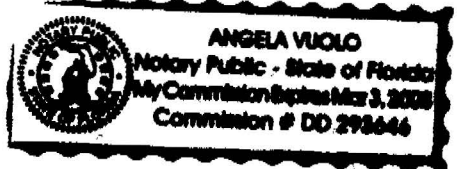


EXHIBIT "A"LEGAL DESCRIPTION

A parcel of land lying within Section 36, Township 26 South, Range 36 East, Brevard County, Florida, more particularly described as follows:

Commence at the Southeast corner of said Section 36; thence N00°32'44"W, along the East line of said Section 36, a distance of 4456.99 feet; thence departing said East line of said Section 36, S89°27'16"W, 50.00 feet to the West Right-of-Way of Wickham Road (a 150.00 foot Right-of-Way) and the Northeast corner of the East 660' of Parcel 2 as recorded in Official Records Book 4715, Page 1510 of the Public Records of Brevard County, Florida; thence along said North line S89°42'50"W, 660.01 feet; to the POINT OF BEGINNING; thence departing said North line S00°32'44"E, 501.18 feet; thence S89°27'16"W, 172.06 feet; thence S65°27'59"W, 60.00 feet; thence N24°32'04"W, 49.94 feet to the point of a curve, concave Southerly, having a radius of 35.00 feet, thence Northwesterly along the arc of said curve to the left, a distance of 45.38 feet, through a central angle of 74°17'00" to the point of a reverse curve, concave Northerly, having a radius of 167.00 feet, thence Southwesterly along the arc of said curve to the right, a distance of 26.64 feet, through a central angle of 09°08'22" to the curves end; thence N89°40'42"W, 43.26 feet; to the point of a curve, concave Southerly, having a radius of 167.18 feet, thence Southwesterly along the arc of said curve to the left, a distance of 22.58 feet, through a central angle of 07°44'15" to the point of a reverse curve, concave Northerly, having a radius of 999.27 feet, thence Southwesterly along the arc of said curve to the right, a distance of 141.40 feet, through a central angle of 08°06'27" to the curves end; thence S00°17'09"E, 108.92 feet; thence N89°25'31"W, 56.53 feet; thence N85°24'08"W, 50.12 feet; thence N82°10'37"W, 34.55 feet; thence S89°42'50"W, 83.36 feet; thence S79°34'47"W, 32.99 feet; thence S65°37'18"W, 55.18 feet; thence S74°53'46"W, 62.34 feet; thence S87°33'15"W, 114.76 feet; thence N56°06'15"W, 65.37 feet; thence N60°16'52"W, 128.45 feet; thence N22°45'43"W, 134.40 feet; thence S89°42'50"W, 380.87 feet to a point on the West line of lands described in Official Records Book 2817, Page 2942 of the Public Records of Brevard County, Florida and the East line of Windover Farms of Melbourne P.U.D., Phase Four, Unit 1 as recorded in Plat Book 35, Pages 71 & 72 of the Public Records of Brevard County, Florida; thence along said West line and said East line N00°32'44"W, 393.46 feet to the Southwest corner of lands described in Official Records Book 3180, Page 960 of the Public Records of Brevard County, Florida; thence N89°42'50"E, 1596.67 feet; to the POINT OF BEGINNING.

Containing 18.4 acres, more or less.

BSM
5/17/06

EXHIBIT B

**ARTICLES OF AMENDMENT
TO
ARTICLES OF INCORPORATION
OF
CASCADES AT LONGLEAF HOMEOWNERS ASSOCIATION
OF BREVARD COUNTY, INC.**

FILED
05 JUL 18 AM 11:41
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

The undersigned, being the President of CASCADES AT LONGLEAF HOMEOWNERS ASSOCIATION OF BREVARD COUNTY, INC., a Florida not for profit corporation, hereby execute these Articles of Amendment which shall be filed in the Office of the Florida Department of State.

**ARTICLE I
Amendments**

A copy of the text of the amendment adopted is attached hereto as Exhibit "A".

**ARTICLE II
Approval**

The owner of all the Lots and the only member of CASCADES AT LONGLEAF HOMEOWNERS ASSOCIATION OF BREVARD COUNTY, INC. approved the attached amendment by signing an instrument in writing reflecting such approval as required by Article XI of these Articles of Incorporation. The number of members who signed said instrument was sufficient for approval.

**ARTICLE III
Effective Date**

The attached amendment shall be effective upon the date of filing of these Articles of Amendment by the Florida Department of State.

IN WITNESS WHEREOF, the undersigned has executed these Articles of Amendment on July 7, 2005.

CASCADES AT LONGLEAF
HOMEOWNERS ASSOCIATION OF
BREVARD COUNTY, INC.

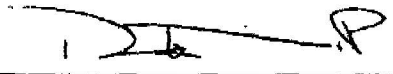
By: 
DAVID BARIN, President
6767 N. Wickham Road, Suite 500
Melbourne, FL 32940

EXHIBIT B

STATE OF FLORIDA
COUNTY OF Brevard

THE FOREGOING INSTRUMENT was acknowledged before me this 7th day of July, 2005 by David Barin, as President of CASCADES AT LONGLEAF HOMEOWNERS ASSOCIATION OF BREVARD COUNTY, INC., a Florida non-profit corporation, on behalf of the Corporation. He is personally known to me or has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid on this 7th day of July, 2005.



Melissa Rachel Kurtyka
Notary Public-State of Florida
Print Name: Melissa Rachel Kurtyka
Commission No.: DD033315
My Commission Expires: 10/22/2008

EXHIBIT B

EXHIBIT "A" TO ARTICLES OF AMENDMENT

**FIRST AMENDMENT
TO
ARTICLES OF INCORPORATION
OF
CASCADES AT LONGLEAF HOMEOWNERS ASSOCIATION
OF BREVARD COUNTY INC.**

1. It is hereby proposed that the existing Articles of Incorporation be amended by deleting all references to CASCADES AT LONGLEAF HOMEOWNERS ASSOCIATION OF BREVARD COUNTY, INC. and replacing all such references with the name THE ARBORS HOMEOWNERS ASSOCIATION OF BREVARD COUNTY, INC.

2. It is hereby proposed that Article XI of the Articles of Incorporation be amended to read as follows:


These Articles of Incorporation may be amended by a majority vote of the members of the Board of Directors at any duly held and noticed meeting of the Board of Directors. Provided however that no amendment shall make changes in the qualification for membership nor the voting rights of the members, nor change the provisions contained in Article III, Paragraph 2(j) without approval in writing of all members and the joinder of all record owners of mortgages on the Lots. Furthermore, no amendment shall be made that is in conflict with the Florida Statutes or the Declaration.

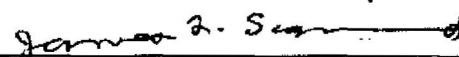
THE UNDERSIGNED LOT OWNER AS REQUIRED BY ARTICLE XI, HEREBY EVIDENCES ITS APPROVAL OF THE FIRST AMENDMENT TO THE ARTICLES OF INCORPORATION OF THE CASCADES AT LONGLEAF HOMEOWNERS ASSOCIATION OF BREVARD COUNTY, INC. AS SET FORTH ABOVE.


IN WITNESS WHEREOF, the following Owner(s) of Lots in Cascades at Longleaf have caused these presents to be executed.

WITNESS: (2 per Owner signature)

LOT OWNER:


Print Name: Sharon W. Weber


Print Name: James L. Sigmund as Director of Cascades Community Developers, Inc., Owner of Lots 1 - 110 and Declarant


Print Name: DANNIELLE A. GOODMAN

Date: July 7, 2005

JUN-03-2004 THU 02:44 PM FRESE NASH HANSEN

EXHIBIT B

FAX NO. 3219513741

P. 02

FILED
SECRETARY OF STATE
TALLAHASSEE, FLORIDA
04 JUN -3 AM 8:30

(((H04000117597 3)))

**ARTICLES OF INCORPORATION
OF
CASCADES AT LONGLEAF HOMEOWNERS ASSOCIATION
OF BREVARD COUNTY, INC.**

(A Corporation Not For Profit)

The undersigned incorporator, being a natural person competent to contract, hereby adopts these Articles of Incorporation in order to form a not for profit corporation without stock under the laws of the State of Florida.

ARTICLE I - NAME

The name of this Corporation is **CASCADES AT LONGLEAF HOMEOWNERS ASSOCIATION OF BREVARD COUNTY, INC.** (hereinafter referred to as the "Association").

ARTICLE II - PURPOSE

The purposes and objects of the Association shall be to administer the operation and management of the Common Area and facilities of Cascades at Longleaf according to the plat or plats thereof, recorded in the Public Records of Brevard County, Florida (the "Plat") and to undertake the performance of the acts and duties incident to the administration of the operation and management of the Common Area in and in accordance with the terms, provisions, covenants and restrictions contained in these Articles, the Declaration of Covenants, Conditions and Restrictions of Cascades at Longleaf Homeowners Association of Brevard County, Inc. (the "Declaration"), as recorded in the Public Records of Brevard County, Florida, the Bylaws of this Corporation, to otherwise deal with such property, whether real or personal, as may be necessary or convenient in the administration of the Common Area, and to operate and maintain the surface water management system facilities, including all inlets, ditches, swales, culverts, water control structures, retention and detention areas, ponds, lakes, flood plain compensation areas, wetlands and any associated buffer areas, and wetland mitigation areas. The Association shall be conducted as a Florida corporation not for profit. The terms used in these Articles shall have the same meaning as set forth in the Declaration.

ARTICLE III - POWERS

The Association shall have the following powers:

1. The Association shall have all of the powers and duties granted to corporations not for profit under the laws of the State of Florida except as limited by these Articles of Incorporation and the Declaration.

(((H04000117597 3)))

EXHIBIT B

((H04000117597 3))

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

(a) To make and establish reasonable rules and regulations governing the use of Lots and the Common Area as said terms may be defined in the Declaration.

(b) To buy, sell, lease, mortgage or otherwise deal with any and all property, whether real or personal.

(c) To operate, maintain and manage the surface water or stormwater management system(s) in a manner consistent with the requirements of the applicable St. John's River Water Management District permit and applicable district rules; and to assist in the enforcement of those provisions of the Declaration which relate to the surface water or stormwater management system(s).

(d) To levy and collect assessments against members of the Association to defray the common expenses of the Properties as may be provided in said Declaration and in the Bylaws of this Association which may be hereafter adopted, including the right to levy and collect assessments for the costs of maintenance and operation of the surface water or stormwater management system and including the right to levy and collect assessments for the purposes of acquiring, operating, leasing, managing and otherwise trading and dealing with such property, whether real or personal, including Lots in said development.

(e) To maintain, repair, replace, operate and manage the Common Area, including the right to reconstruct improvements after casualty and to make further improvements to the Common Area.

(f) To contract for the maintenance of the Common Area.

(g) To enforce the provisions of the Declaration, these Articles of Incorporation, the Bylaws of the Association which may be hereafter adopted, and the Rules and Regulations governing the use of the Common Area as may be hereafter established.

(h) To approve or disapprove the transfer, lease, mortgage and ownership of Lots as may be provided by the Declaration and by the Bylaws.

(i) To execute, undertake and accomplish all of the rights, duties and obligations which may be granted to or imposed upon the Association pursuant to the Declaration.

((H04000117597 3))

EXHIBIT B

((H04000117597 3))

(j) All funds and the titles to all property acquired by the Association, and their proceeds shall be held in trust for the members in accordance with the provisions of the Declaration, these Articles of Incorporation and the Bylaws of the Association.

ARTICLE IV - MEMBERS

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

1. Every owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

2. Membership shall be acquired by recording in the Public Records of Brevard County, Florida, a deed or other instrument establishing record title to a Lot, the Owner designated by such instrument thus becoming a member of the Association, and the membership of the prior owner being thereby terminated, provided, however, that any party who owns more than one Lot shall remain a member of the Association so long as he shall retain title to or a fee ownership interest in any Lot.

3. The interest 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 his Lot. The funds and assets of the Association shall belong solely to the Association subject to the limitation that the same be expended, held or used for the benefit of the membership and for the purposes authorized herein, in the Declaration, and in the Bylaws which may be hereafter adopted.

4. On all matters on which the membership shall be entitled to vote, there shall be only those votes for each Lot as set forth in the Declaration, notwithstanding the fact that the Lot is owned by more than one person, and such vote or votes may be exercised by the Owner or Owners of each Lot in such manner as may be provided in the Bylaws hereafter adopted by the Association. Should any Owner or Owners own more than one Lot, such Owner or Owners shall be entitled to exercise or cast as many votes as are allocated to the particular Lots owned, in the manner provided by the Bylaws.

5. Notwithstanding anything to the contrary herein, there shall be two (2) classes of Members. The Declarant shall be a Class B Member. The Class B Member shall be entitled to three (3) votes per Lot. All other Owners shall be Class A Members, which shall have one (1) vote per Lot. The Class B membership shall be converted to Class A membership no later than three (3) months after ninety percent (90%) of the Lots in the Subdivision have been conveyed to Members, not including conveyances to a person, firm or entity to whom Declarant assigns its rights.

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EXHIBIT B

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ARTICLE V - TERM

Existence of the Association shall commence upon execution of these Articles of Incorporation. The Association shall exist in perpetuity. In the event of termination, dissolution, or final liquidation of the Association, the responsibility for the operation and maintenance of the surface water or stormwater management system must be transferred to and accepted by an entity which would comply with Section 40C-42.027, F.A.C., and be approved by the St. John's River Water Management District prior to such termination, dissolution or liquidation.

ARTICLE VI - LOCATION

The principal office of the Association shall be located at 6767 N. Wickham Road, Suite 500, Melbourne, Florida 32940, but the Association may maintain offices and transact business in such other places within or without the State of Florida as may from time to time be designated by the Board of Directors; furthermore, the Board of Directors may from time to time relocate the aforesaid principal office.

ARTICLE VII - DIRECTORS

1. The Affairs of the Association shall be managed by a Board of Directors. The number of persons which will constitute the entire Board of Directors shall not be less than three (3) nor more than seven (7), except as may be changed from time to time as provided in the Bylaws. The manner of electing directors shall be provided for in the Bylaws of the Association.

2. The number of directors constituting the initial Board of Directors of the Association is three (3). The names and addresses of said persons who are to serve on the initial Board of Directors are:

David Barin

6767 N. Wickham Road, Suite 500
Melbourne, Florida 32940

Lisa Walker

6767 N. Wickham Road, Suite 500
Melbourne, Florida 32940

Boaz Bar-Navon

6767 N. Wickham Road, Suite 500
Melbourne, Florida 32940

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ARTICLE VIII - OFFICERS

The affairs of the Association shall be administered by the officers in accordance with the Bylaws. The president and such other officers and assistant officers as the Board of Directors may from time to time designate shall constitute the officers of the Association. The officers of the Association shall be elected by the Board of Directors at its first meeting following the annual meeting of the members of the Association and shall serve at the pleasure of the Board of Directors. The names and addresses of the officers who shall serve until their successors are designated by the Board of Directors are as follows:

David Barin - President
6767 N. Wickham Road, Suite 500
Melbourne, Florida 32940

Boaz Bar-Navon - Vice-President / Treasurer
6767 N. Wickham Road, Suite 500
Melbourne, Florida 32940

Lisa Walker - Secretary
6767 N. Wickham Road, Suite 500
Melbourne, Florida 32940

ARTICLE IX - BYLAWS

The first Bylaws of the Association shall be adopted by the Board of Directors and may, thereafter, be altered, amended or rescinded only as provided in said Bylaws.

ARTICLE X - INDEMNIFICATION

Every director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a director or officer at the time such expenses are incurred except in such cases wherein the director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that any claim for reimbursement or indemnification herein shall only apply if the Board of Directors approves such settlement and reimbursement as being in the best interests of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such directors or officers may be entitled.

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The Board of Directors may, and shall if the same is reasonably available, purchase liability insurance to insure all directors, officers or agents, past and present, against all expenses and liabilities as set forth above. The premiums for such insurance should be paid by the Lot Owners as part of the common expense.

ARTICLE XI - AMENDMENTS

These Articles of Incorporation may be amended by a majority vote of the members of the Association whether meeting as members or by instrument in writing signed by them. Provided, however, that no amendment shall make changes in the qualifications for membership nor the voting rights of the members, nor change the provisions contained in Article III, Paragraph 2(j), without approval in writing of all members and the joinder of all record owners of mortgages on the Lots. Furthermore, no amendment shall be made that is in conflict with the Florida Statutes or the Declaration.

ARTICLE XII - CONFLICTS OF INTEREST

In the absence of fraud, no contract or other transaction between the Association and any other person, firm, corporation or partnership shall be affected or invalidated by reason of the fact that any director or officer of the Association is pecuniarily or otherwise interested therein.

ARTICLE XIII - INCORPORATOR

The name and address of the initial incorporator is as follows: Gary B. Frese, 930 S. Harbor City Boulevard, Suite 505, Melbourne, Florida 32901.

ARTICLE XIV - REGISTERED AGENT

The initial registered agent of the Association is Gary B. Frese and the street address of the initial registered office of the Association is 930 S. Harbor City Boulevard, Suite 505, Melbourne, Florida 32901. This corporation shall have the right to change such registered agent and office from time to time as provided by laws.

IN WITNESS WHEREOF, the undersigned has made and subscribed to these Articles of Incorporation in Melbourne, Brevard County, Florida, this 2nd day of June, 2004.



 Gary B. Frese

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JUN-03-2004 THU 02:48 PM FRESE NASH HANSEN FAX NO. 3219513741

EXHIBIT B

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I hereby declare that I am familiar with and accept the duties and responsibilities as registered agent for said corporation.



Gary B. Frese
Registered Agent

FILED
SECRETARY OF STATE
TALLAHASSEE, FLORIDA
04 JUN - 3 AM 8:30

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Exhibit "C"

BY-LAWS

OF

THE ARBORS HOMEOWNERS ASSOCIATION OF BREVARD COUNTY, INC.

Article I

Name, Principal Office, and Definitions

1.1. Name. The name of the Association shall be THE ARBORS HOMEOWNERS ASSOCIATION OF BREVARD COUNTY, INC. ("Association").

1.2. Principal Office. The principal office of the Association shall be located at P.O. Box 411989, Melbourne, FL, 32941-1989. The Association may have such other offices as the Board may determine or as the affairs of the Association may require.

1.3. Definitions. The words used in these By-Laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in the Declaration of Covenants and Restrictions for The Arbors to be filed in the Public Records of Brevard County, Florida, as the same may be amended from time to time ("Declaration"), unless the context indicates otherwise.

Article II

Association: Membership, Meetings, Quorum, Voting, Proxies

2.1. Membership. There shall be the following two (2) classes of membership in the Association:

(a) Class A. Every person, group of persons or entities that is an Owner of a Lot shall be a Class A member of the Association. However, any such person, group of persons, or entities, who holds such interest solely as security for the performance of an obligation shall not be a Member.

(b) Class B. The Declarant shall be the Class B member of the Association.

2.2. Membership Appurtenant to Ownership. Every Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot, and such membership shall be terminated without the necessity of any formal action upon the recording of a valid instrument terminating or transferring the vested, present interest of the Owner.

2.3. Place of Meeting. Meetings of the Association shall be held within THE ARBORS subdivision or at such other suitable place within the State of Florida as may be designated by the Board.

2.4. Annual Members' Meetings. The first annual meeting shall be held within three (3)

months after ninety percent (90%) of the Lots have been conveyed to Members or such earlier time as the Declarant determines. Subsequent annual meetings shall be held on a date to be determined by the Board which date shall be within thirteen (13) months of the preceding annual meeting. In the event that a quorum, as defined in Section 2.12 of these By-Laws, is not present at an annual meeting, the Association may hold the meeting for informational purposes; provided, however, except as provided for in Section 2.12, the Association may not take any action at such meeting unless a quorum is present.

2.5. Special Members' Meetings. The President of the Association ("President") may call special meetings. In addition, it shall be the duty of the President to call a special meeting, if so directed by resolution of a majority of the Board or upon a petition signed by Members holding at least ten percent (10%) of the total voting interests of the Association.

2.6. Notice of Members' Meetings. The Secretary of the Association ("Secretary") shall cause written notice stating the place, day, and hour of any meeting of the Members to be delivered by hand delivery or United States mail, postage prepaid, to each Member, or, if permitted by Florida law, by facsimile, computer, fiber optics, cable, or other similar communication devices or such other manner which is reasonably calculated, as determined in the discretion of the Board, to provide personal notice to the Members entitled to notice. Such notice shall be delivered not less than fourteen (14) nor more than sixty (60) days before the date of such meeting.

Notice of an annual meeting need not include a description of the purpose or purposes for which the meeting is called. In the case of a special meeting or when otherwise required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No other business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Member at his or her address as it appears on the records of the Association, with postage prepaid. If sent by facsimile, computer, fiber optics, cable, or such other similar communication device, notice shall be deemed to be delivered when transmitted to the Member at his or her address or number as it appears on record with the Association. The failure of any Member to receive actual notice of the meeting of the Members shall not affect the validity of any action taken at such meeting.

2.7. Waiver of Notice. Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, in person or by proxy, waive notice of any meeting of the Association, either before or after such meeting. Neither the affairs transacted nor the purpose of the meeting need be specified in the written waiver. Attendance at a meeting by a Member, either in person or by proxy, constitutes waiver of notice and waiver of any and all objections to the place of the meeting, the time of the meeting, or the manner in which it has been called or convened, unless the Member attends a meeting solely for the purpose of stating, at the beginning of the meeting, any such objection or objections to the transaction of affairs.

2.8. Adjournment of Meetings. A majority of the Members who are present at any annual or special members' meeting may adjourn the same to a different date, time, or place, even if a quorum does not exist. However, any such adjournment to a different date, time, or place must be announced at that meeting before the adjournment is taken or notice must be

given of the new date, time, or place pursuant to Section 2.6 above. Any business that might have been transacted on the original date of the meeting may be transacted at the adjourned meeting. If a new record date for the adjourned meeting is or must be fixed, notice of the adjourned meeting must be given to persons who are entitled to vote and are Members as of the new record date but were not Members as of the previous record date.

2.9. Voting. All Members may vote at a meeting by voice vote, written ballot, general or limited proxy. All votes of the Members at meetings shall be subject to the quorum requirements of Section 2.12 of these By-Laws.

(a) Class A. Class A members shall be entitled to one (1) vote for each Lot in which they hold the interests required for membership. In the event that more than one (1) person, group of persons or entities is a record owner of a fee interest in any Lot, then the vote for membership appurtenant to such shall be exercised as such persons among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. In the event owners of a Lot cannot agree as to which owner shall be entitled to vote or cannot agree as to a unified vote on the issue being voted upon, then in that event said vote shall not be a valid vote and shall not be counted in a tabulation of the votes but may be counted for quorum.

(b) Class B. The Class B member shall be entitled to four (4) votes for each Lot owned by the Class B member or Builder.

2.10. Proxies. Members may vote by person or by proxy. Each proxy shall be in writing, dated and duly signed, shall state the date, time, and place of the meeting for which it was given, and shall be filed with the Secretary prior to the vote at the meeting for which the proxy states it is to be effective. Proxies shall be deemed filed with the Secretary, upon receipt if delivered by personal delivery, U.S. mail or facsimile addressed to the Secretary at the address or facsimile number for the Association. Unless otherwise provided in the proxy, one proxy shall cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two or more proxies purporting to cover the same voting rights, the latter dated proxy shall prevail. If dated the same date, both proxies shall be deemed invalid. A proxy is effective only for the specific meeting for which it was given, as the meeting may lawfully be adjourned and reconvened from time to time, and each proxy automatically expires ninety (90) days after the date of the meeting for which it was originally given. If the proxy form expressly so provides, any proxy holder may appoint, in writing, a substitute to act in his or her place. The proxy of any Member shall be revocable and shall automatically cease upon conveyance of such Member's Lot. Both general and limited proxies may be used.

2.11. Majority. As used in these By-Laws, the term "majority" shall mean those votes, Members, or other group, as the context may indicate, totaling more than fifty percent (50%) of the total eligible number.

2.12. Quorum. Except as otherwise provided in these By-Laws, the Articles or in the Declaration, the presence, in person or by proxy, of Members holding twenty percent (20%) of the total voting interests of the Association shall constitute a quorum at all meetings of the Members. Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum; provided, unless otherwise specifically set forth in these By-Laws, the Articles or the Declaration, any action for which a vote of the Members at a meeting is required must be approved by at least a majority of the votes required to constitute a quorum.

2.13. Conduct of Meetings. The President shall preside over all meetings of the Association, and the Secretary shall ensure that minutes of the meeting are kept and that all resolutions adopted at the meeting, as well as all transactions occurring at the meeting, are recorded in a minute book.

2.14. Video or Telephone Participation. One or more Members may participate in and vote during any regular or special meeting of the Members by telephone conference call, video conference, fiber optics, cable, or similar communication equipment by means of which all persons participating in the meeting can hear each other at the same time, and those Members so participating shall be deemed present at such meeting for all purposes, including calculation of a quorum, as determined by the Board.

2.15. Action Without a Meeting. Any action required or permitted by law or by these By-Laws, the Articles and/or the Declaration to be taken at a special or annual meeting of the Members may be taken without a meeting, without prior notice, and without a vote, so long as such action complies with Section 617.0701, Florida Statutes, or its successor law, as from time to time amended.

Article III **Board of Directors**

3.1. Governing Body Composition. The affairs of the Association shall be governed by a Board of Directors, who need not be Members of the Association.

3.2. Number of Directors and Voting Power. The first Board shall consist of three (3) directors. The Board shall remain at three (3) directors until such time as the Declarant transfers control of the Association to Owners other than the Declarant. At which time the Board shall consist of not less than five (5) Directors who must be Members of the Association. Each director shall have one (1) equal vote.

3.3. Appointment of Initial Board of Directors. The Declarant has power to appoint the initial Board of Directors, and the initial Board of Directors or their Declarant-appointed replacements shall serve until the first annual meeting of the Owners, which shall be held within three (3) months after ninety percent (90%) of the Lots have been conveyed to Members or such earlier time as the Declarant determines.

3.4. Director Applications and Nominations. Candidates shall apply for or be nominated for election to the Board in accordance with policies and procedures established from time to time by the Board, which policies and procedures must be established no later than ninety (90) days prior to the election to which they apply.

Notwithstanding the above, all Members of the Association shall be eligible to serve on the Board and all Members may nominate themselves as a candidate for the Board at the meeting where the election is to be held.

3.5. Election. Directors shall be elected by the Members at annual elections held at each Annual Meeting.

Votes for the election of directors shall be cast by written ballot at the Annual Meeting, in

person or by general or limited proxy.

Directors must be elected by a plurality of the votes cast. Cumulative voting shall not be permitted.

3.6. Term of Office. Unless otherwise removed as provided below, all of the Directors on the Board shall hold office for one (1) year terms and until their respective successors have been elected and take office.

3.7. Removal of Directors. Directors may be removed and vacancies filled as follows:

(a) By the Members:

Any member of the Board may be removed from office with or without cause by the vote or agreement in writing by a majority of all votes of the membership, so long as such removal is in compliance with Section 720.303(10), Florida Statutes, or its successor law, as the same may be amended from time to time.

(b) By the Board:

Any director who has two (2) or more consecutive unexcused absences from Board meetings may be removed by a vote of a majority of the other directors at a regular or special meeting of the Board. No such action may be taken without reasonable notice to the subject Board member and an opportunity to defend against any such charges.

3.8. Filling Board Vacancies.

Except for removal by the membership as provided for in Section 720.303(10), Florida Statutes, any vacancy occurring on the Board may be filled by the affirmative vote of the majority of the remaining directors, even though remaining directors constitute less than a quorum, or by the sole remaining director, as the case may be, or, if the vacancy is not so filled or if no director remains, by the Members or, on the application of any person, by the circuit court having jurisdiction over Brevard County, Florida. A Director so elected or appointed to fill a vacancy shall be elected or appointed for the unexpired term of his or her predecessor in office.

3.9 Organizational Meetings. The Board shall hold an organizational meeting within thirty (30) days after newly-elected directors take office.

3.10. Regular Meetings/Notice of the Same. Regular meetings of the Board shall be held monthly at such time and place as the Board shall determine, and no notice need be given to the directors prior to such regular meetings. Except in the case of emergencies, notice of the time and place of a Board meeting shall be communicated to Members by posting a notice of the same in a conspicuous place within the community at least forty-eight (48) hours in advance of a meeting or by using such other reasonable alternative chosen by the Board and permitted under Florida law. Notwithstanding the above, no assessment may be levied at a Board Meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of the assessment. Further, written notice of any meeting at which assessments will be considered or at which rules regarding Townhouse use will be adopted, amended or revoked must be mailed or hand-delivered to the Members and posted

conspicuously on the property not less than fourteen (14) days before the meeting. The failure of any Member to receive actual notice of a meeting of the Board does not affect the validity of the any action taken at that meeting.

3.11. Special Meeting/Notice of the Same. Special meetings of the Board shall be held when called by the President or by a majority of Directors, or within ten (60) days after presentation to the President of a petition requesting the Board to address an item of business signed by Members holding at least twenty percent (20%) of the total voting interests of the Association. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each Director by: (a) personal delivery; (b) first-class mail, postage prepaid; (c) telephone communications, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (d) facsimile, computer, fiber optics, or any such other communication device as permitted by Florida law. All such notices shall be given at the Director's telephone, facsimile, or e-mail number or sent to the Director's address as shown on the records of the Association. Notices sent to Directors by first class mail shall be deposited into a United States mailbox at least seven (7) business days before the time set for the meeting. Except in the case of emergencies, notices given to Directors by personal delivery, telephone, facsimile, or other device shall be delivered, telephoned, or transmitted at least forty-eight (48) hours before the time set for the meeting. Except in the case of emergencies, or as otherwise required by Florida law, notices to Members of special meetings of the Board shall be given to Members by posting a notice of the same in a conspicuous place within the community at least forty-eight (48) hours in advance of a meeting or by using such other reasonable communication alternatives chosen by the Board and permitted under Florida law. Further, except in the case of emergencies, written notice of any special meeting at which special assessments will be considered or at which rules regarding Townhouse use will be adopted, amended or revoked must be mailed or hand-delivered to the Members and posted conspicuously on the property not less than fourteen (14) days before the meeting. The failure of any Member to receive actual notice of a meeting of the Board does not affect the validity of the any action taken at that meeting.

3.12. Waiver of Notice. The transaction of any meeting of the Board, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held and noticed if (a) a quorum is present, and (b) either before or after the meeting each of the Directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Attendance of a Director at a meeting shall also constitute a waiver of notice of such meeting and a waiver of any and all objections to the place of the meeting, the time of the meeting, or the manner in which it has been called or convened, except when a Director states, at the beginning of the meeting or promptly upon arrival at the meeting, any objection to the transaction of affairs because the meeting is not lawfully called or convened.

3.13. Quorum of Board of Directors. At all meetings of the Board, a majority of the Directors shall constitute a quorum for the transaction of business, and the votes of a majority of the Directors present at a meeting at which a quorum is present shall constitute the decision of the Board, unless otherwise specifically provided in these By-Laws, the Articles or the Declaration. If any meeting of the Board cannot be held because a quorum is not present, a majority of the Directors present at such meeting may adjourn the meeting to another time and place. Notice of any such adjourned meeting shall be given to the Directors who were not present at the time of the adjournment, and unless, the time and place of the adjourned

meeting are announced at the time of the adjournment, to the other Directors.

3.14. Compensation. No Director shall receive any compensation from the Association for acting as such; provided however, any Director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other Directors. Nothing herein shall prohibit the Association from compensating a Director, or any entity with which a Director is affiliated, for services or supplies furnished to the Association in a capacity other than as a Director pursuant to a contract or agreement with the Association, provided that such Director's interest was made known to the Board prior to entering into such contract and such contract was approved by a majority of the Board, excluding the interested Director.

3.15. Conduct of Meetings. The President shall preside over all meetings of the Board. The Secretary shall ensure that a minute book is kept of all meetings of the Board, and record all resolutions adopted by the Board and all transactions and proceedings occurring at such meetings.

3.16. Open Meetings. All meetings of the Board shall be open to all Members, but a Member other than a Director may not participate in any discussion or deliberation unless the Member complies with the requirements and time limits established pursuant to Section 720.303(2)(b), Florida Statutes, or permission to speak is authorized by a vote of the majority of a quorum of the Board. If permission to speak is authorized by a majority of a quorum of the Board, the Board may limit the time any Member may speak. Notwithstanding the above, the Board may exclude Members, to hold discussions between the Board and its attorney with respect to proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney-client privilege.

3.17. Video and Telephonic Participation. One or more Directors may participate in and vote during any regular or special meeting of the Board by telephone conference call, video conference, fiber optics, or similar communication equipment by means of which all persons participating in the meeting can hear each other at the same time, and those Directors so participating shall be deemed present at such meeting. Any such meeting at which a quorum participates shall constitute a meeting of the Board.

3.18. Powers. The Board shall have all of the powers and duties necessary and appropriate for the governance of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Declaration, these By-Laws, the Articles, and as provided by Florida law. The Board may do or cause to be done all acts and things not required by the Declaration, the Articles, these By-Laws, or Florida law to be done and exercised exclusively by the members. The Board may delegate powers to committees, officers, a management agent or agents, or employees of the Association.

3.19. Duties. The duties of the Board shall include, without limitation:

- (a) preparing and adopting annual budgets;
- (b) levying and collecting assessments against the Members;
- (c) providing for the operation, care, upkeep, and maintenance of the Common Property and Common Improvements;

- (d) retaining the services of a managing agent or agents and/or designating, hiring, and dismissing such other personnel as are necessary to perform the powers and responsibilities of the Association and, where appropriate, providing for the compensation of such personnel and for the purchase of the equipment, supplies, and material to be used by such personnel in the performance of their duties;
- (e) approving a bank depository to receive funds on behalf of the Association and depositing all such funds therein and using such funds to operate the Association; provided, any reserve fund may be deposited, in the Directors' best business judgment, in depositories other than banks;
- (f) adopting Rules and Regulations governing the use of the Common Property and the facilities thereon and for use of the Lots and establishing sanctions for infractions thereof;
- (g) opening of bank accounts on behalf of the Association and designating the signatories required;
- (h) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Property and Common Improvements in accordance with the Declaration, the Articles and these By-Laws;
- (i) enforcing by legal means the provisions of the Declaration, the Articles, these By-Laws, and the Rules and Regulations and Design Guidelines adopted by the Board; provided, the Board shall not be obligated to take any action to investigate any alleged violation of or to enforce any covenant, restriction, or Rule and Regulation which the Board reasonably determines is, or is likely to be, inconsistent with applicable law, or if the Board reasonably determines that the Association's position is not strong enough to take such enforcement action, or if the Board otherwise determines, in its business judgment, that such enforcement action would be inappropriate;
- (j) obtaining and carrying insurance, as required in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;
- (k) paying all taxes and/or assessments which are or could become a lien on the Common Property or a portion thereof;
- (l) paying the cost of all services rendered to the Association or Members and not chargeable directly to specific Members;
- (m) keeping books with detailed accounts of the receipts and expenditures of the Association;
- (n) making available and providing copies, for a fee, to any Owner, and the holders, insurers, and guarantors of any mortgage on any Lot current copies of the Declaration, the Articles, these By-Laws, Rules and Regulations, Design Guidelines, and such other books, records, and financial statements of the Association as are identified as official records of the Association by Chapter

720, Florida Statutes, or its successor law, as from time to time amended;

(o) indemnifying a Director, officer or committee member, or former Director, officer or committee member of the Association to the extent such indemnity is permitted or required by Florida law and the Articles, and purchasing insurance providing such indemnification; and

(p) supervising all officers, agents and employees of the Association to ensure that their duties are properly performed.

3.20. Management. The Association may, but shall not be required to, employ a professional management agent or agents at compensation established by the Board to perform such duties and services as the Board shall authorize. The Board may delegate to the management agent such powers as are necessary to perform its assigned duties; provided, the Board may not delegate policy-making authority. Any agreement for the services of any management agent shall provide for termination by the Association with or without cause, and without payment of a termination fee, upon thirty (30) days written notice, and no such agreement shall be for a duration in excess of one (1) year, renewable by agreement of the parties for successive one (1) year periods.

No remuneration shall be accepted by the management agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; anything of value shall benefit the Association. In addition, any financial or other interest which the management agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board.

3.21. Accounts and Reports. Accounting and controls should conform to generally accepted accounting principles. Financial Reports shall be prepared and distributed in conformance with Chapter 720, Florida Statutes, or its successor law, as from time to time amended;

3.22. Borrowing and Security for Debt. The Association, acting through its Board, shall have the power to borrow money for any legal purpose and to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, all without membership approval.

3.23. Rights of the Association. Subject to applicable law relating to Member, officer, and Director conflicts of interest, the Association shall have the right to contract with any person for the performance of various duties and functions.

Article IV **Officers**

4.1. Officers. The officers of the Association shall be a President, Vice President, Secretary, Treasurer. The officers of the Association need not be members of the Board. An officer may hold more than one (1) office at a time.

4.2. Election and Term of Office. The officers of the Association shall be elected annually by the Board at the first meeting of the Board of Directors following each annual

meeting of the Members. Each officer shall serve a one (1) year term; provided, each officer's term shall automatically renew until their replacement has been appointed.

4.3. Removal and Vacancies. Any officer may be removed from office with or without cause by a vote of a majority of the Directors. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled for the unexpired portion of the term by appointment by a majority of the Directors.

4.4. Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Board; provided, the Board may not confer or impose powers or duties which may not otherwise be exercised by the Board. By way of example, and not limitation, the officers shall have the following powers and duties:

(a) President. The President shall be the chief executive officer of the Association and shall exercise general supervision and direction of the affairs of the Association.

(b) Vice President. The Vice President shall act in the President's absence and shall have all powers, duties, and responsibilities provided for the President when so acting.

(c) Secretary. The Secretary shall be responsible for keeping the minutes of all meetings of the Association and the Board. The Secretary shall attend to the giving of all notices to the members and Directors and other notices required by law. He or she shall have custody of the seal of the Association and shall affix it to instruments requiring the seal when duly signed. He or she shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of the secretary of an association and as may be required by the Directors or the President.

(d) Treasurer. The Treasurer shall have primary responsibility for the preparation of the budget. The Treasurer shall have custody of all property of the Association, including funds, securities, and evidences of indebtedness. He or she shall keep books of account for the Association in accordance with good accounting practices, which, together with substantiating papers, shall be made available to the Board for examination at reasonable times. He or she shall submit a Treasurer's report to the Board at reasonable intervals and shall perform all other duties incident to the office of Treasurer and as may be required by the Directors or the President. All money and other valuable effects shall be kept for the benefit of the Association in such depositories as may be designated by a majority of the Board.

4.5. Resignation. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.6. Agreements, Contracts, Deeds, Leases, Checks, Etc. All agreements, contracts, deeds, leases, checks, and other instruments of the Association (other than for the withdrawal

of reserve funds) shall be executed by at least two (2) different individuals who are officers of the Association, or by such other person or persons as may be designated by resolution of the Board. The Board shall require signatures for the withdrawal of reserve funds of two (2) members of the Board. For purposes of this Section, "reserve funds" means monies the Board has identified in the capital expenditures budgets for use to defray the future repair or replacement of those replaceable assets which the Association is obligated to maintain and for use in making additional capital improvements and purchasing additional capital assets.

4.7. Compensation. Compensation of officers shall be subject to the same limitations as compensation of Directors as provided above.

Article V **Committees**

5.1. Committees. The Board shall establish such committees as are required under the Declaration or these By-Laws and may establish such other committees as are authorized or that it deems appropriate. Any such committee may perform such tasks and functions as the Board may designate; provided, no committee or committee member may exercise any power or authority which could not otherwise be exercised by the Board.

Committee members may, but need not, be Directors, officers, employees of the Association or the managing agent, or Members. Committee members serve at the Board's discretion for such periods as the Board may designate. Each committee shall operate in accordance with the terms of the motion or resolution establishing such committee.

5.2. Meeting Requirements. Except as provided below, in conducting its duties and responsibilities, each committee shall abide by the procedures and requirements applicable to the Board of Directors set forth in Sections 3.10, 3.11, 3.12, 3.13, 3.14, 3.16, and 3.17. Notwithstanding the above, the following exceptions apply:

- (a) Regular meetings of committees may be held more or less frequently than monthly at the discretion of each committee;
- (b) The membership notice requirements contained in Sections 3.10 and 3.11 and the open meeting requirements contained in Section 3.16 shall only apply as follows:
 - (i) When committees will make a final decision regarding the expenditure of association funds;
 - (ii) For all committee meetings of any committee vested with the power to approve or disapprove architectural decisions with respect to a Lot; or
 - (iii) For all committee meetings when a quorum of the full board is in attendance at any committee meeting.

Article VI **Miscellaneous**

6.1. Fiscal Year. The fiscal year of the Association shall be each calendar year,

January 1 through December 31 unless otherwise established by Board resolution.

6.2. Parliamentary Rules. Except as may be modified by Board resolution, Robert's Rules of Order (current edition) shall govern the conduct of Association proceedings when not in conflict with Florida law, the Articles, the Declaration, or these By-Laws.

6.3. Conflicts. If there are conflicts between the provisions of Florida law, the Articles, the Declaration, and these By-Laws, the provisions of Florida law, the Declaration, the Articles, and the By-Laws (in that order) shall prevail.

6.4. Books and Records.

(a) Inspection by Members and Mortgagees. Subject to the exceptions set forth below, the Board shall make available for inspection and copying by any holder, insurer, or guarantor of a first mortgage on a Lot, any Member, or the duly authorized agent of any of the foregoing at any reasonable time, the Official Records of the Association, but only as the same are defined by Chapter 720, Florida Statutes or any successor law, as from time to time amended. The Board shall provide for such inspection to take place at the office of the Association or at such other place within the community as the Board shall designate.

(b) Rules for Inspection and Copying. The Board shall establish reasonable rules with respect to such inspection and copying, including but not limited to:

- (i) hours and days of the week when such an inspection may be made;
- (ii) frequency of inspections; and
- (iii) payment of the cost of reproducing and delivering copies of documents requested.

(c) Inspection by Director. Every Director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make a copy of relevant documents at the expense of the Association in furtherance of such Director's duties as a Director.

(d) Exception to Inspection Requirement. Notwithstanding any provision to the contrary, the Board shall not be required to make available for inspection the records set forth in Section 720.303(5)(c)(1-4), Florida Statutes, as amended from time to time.

6.5. Notices. Unless otherwise provided in these By-Laws, all notices, demands, bills, statements, or other communications shall be in writing and shall be sent as follows:

(a) if to a Member, at the address which the Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Lot owned by a Member;

(b) if to the Association, the Board, any officer of the Association, or the management agent, at the principal office of the Association or the management agent, if any, or at such other address as shall be designated by notice in writing to the Members pursuant to this Section; or

(c) if to the Declarant, at the principal office of the Declarant, or at such other address as is designated in writing and filed with the Secretary of the Association.

All such notices shall, for all purposes, be deemed delivered and received (a) upon personal delivery to the party or address specified above, or (b) on the third day after being deposited in the United States mail, postage prepaid and properly addressed.

6.6. Indemnification. Subject to any limitations imposed by applicable law, the Association shall indemnify every officer, Director, employee or agent of the Association as provided in the Articles.

6.7. Amendment.

These By-Laws may be amended only by the affirmative vote of a majority of the Board at a regular or special meeting of the Board called for that purpose; provided however, that these By-Laws may not be so amended by the Board in any manner which would be inconsistent with the Declaration or the Articles.

Amendments to these By-Laws shall become effective upon the recordation of an amendatory instrument executed by the President and Secretary of the Association and recorded in the Public Records of Brevard County, Florida.

The foregoing was adopted as the By-Laws of THE ARBORS HOMEOWNERS ASSOCIATION OF BREVARD COUNTY, INC., a corporation not for profit under the laws of the State of Florida, on this 28th day of April, 2006

THE ARBORS HOMEOWNERS ASSOCIATION OF BREVARD COUNTY, INC.

BY: [Signature]
Kenneth R. Mitchell, President

ATTEST: [Signature]
Hazel O'Toole, Secretary

