INSTRUMENT#: 2007421382, BK: 18142 PG: 1695 PGS: 1695 - 1815 09/27/2007 at 03:05:37 PM, DEPUTY CLERK: CLEWIS Pat Frank, Clerk of the Circuit Court Hillsborough County

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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

TRIPLE CREEK

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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR TRIPLE CREEK

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS is made this 28th day of June, 2007, by Triple Creek, LLC, a Delaware limited liability company.

Article I Creation of the Community

1.1. Purpose and Intent.

Declarant (as defined in Article II), as the owner of the real property described in Exhibit "A" (or if not the owner, with the owner's consent), intends, by recording of this Declaration, to establish a general plan of development for **TRIPLE CREEK**, a planned community (the **"Community"**). This Declaration, together with the other Governing Documents described in Section 1.3, provides for the overall development, administration, maintenance, and preservation of **TRIPLE CREEK**, and provides a flexible and reasonable procedure for its future expansion. An integral part of the development plan is the creation of Triple Creek Homeowners Association, Inc. (the **"Association"**) to own, operate, and/or maintain various common areas and community improvements and to administer and enforce this Declaration and the other Governing Documents.

This document does not and is not intended to create a condominium under Florida law.

1.2. Binding Effect.

This Declaration governs the property described in Exhibit "A," and any other property submitted to this Declaration in the future pursuant to Article IX. This Declaration shall run with the title to such property and shall bind everyone having any right, title, or interest in any portion of such property, their heirs, successors, successors-in-title, and assigns. Declarant, the Association, any Owner (as defined in Article II), and their respective legal representatives, heirs, successors, and assigns, may enforce this Declaration. Each Owner shall automatically be a Member (as defined in Article II) of the Association.

This Declaration is intended to have perpetual duration, but shall be effective for a minimum of 30 years from the date it is recorded, subject to the right of Declarant and the Members to amend it as provided in Article XX. After the initial 30-year period, it shall automatically be extended for successive 10-year periods in perpetuity unless, within the 12-month period preceding any extension, an instrument signed by the then Owners of at least 75% of the Lots (as defined in Article II) agreeing to terminate this Declaration is recorded. If any provision of this Declaration would be invalid under the Florida Uniform Statutory Rule Against Perpetuities, that provision shall expire 90 years after this Declaration is recorded. This section

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does not authorize termination of any easement created in this Declaration without the consent of the holder of such easement.

1.3. Governing Documents.

The following chart identifies the documents which govern the Community (as they may be amended from time to time, the **"Governing Documents"**) and describes, in part, the purpose of each. Every Owner and occupant of a Lot (as defined in Article II), and their respective guests, tenants, visitors and invitees, shall comply with the Governing Documents.

Declaration (Recorded) →	creates obligations which are binding upon the Association and all present and future owners and occupants of, and others with any interest in, property in the Community
Supplemental Declaration (Recorded) →	adds property to the Community; and/or *may* impose additional obligations or restrictions on such property
Articles of Incorporation (filed with the Secretary of State; initial Articles attached as Exhibit "D") →	establish the Association as a not-for-profit corporation under Florida law
By-Laws (Board adopts; initial By-Laws attached as Exhibit "E") →	govern the Association's internal affairs, such as voting rights, elections, meetings, officers, etc.
Architectural Guidelines (Declarant or Association may adopt) →	establish architectural standards and guidelines for improvements and modifications to Lots, including structures, landscaping, and other items on Lots
Use Restrictions (initial set attached as Exhibit "C") →	govern use of property and activities within the Community
Board Resolutions and Rules (Board may adopt) →	establish rules, policies, and procedures for internal governance and Association activities; regulate operation and use of Common Area (as defined in Article II)

Additional covenants, conditions, and restrictions may be imposed on all or any portion of the Community, in which case the more restrictive provisions will be controlling. However, no Person (as defined in Article II) shall record any additional covenants, conditions, or restrictions affecting any portion of the Community without Declarant's written consent, during the Development and Sale Period (as defined in Article II), or without the Board's (as defined in Article II) consent thereafter. Any instrument recorded without the necessary consent is void and of no force or effect.

If there are conflicts between Florida law, the Declaration, the Articles, and the By-Laws, Florida law, the Declaration, the Articles, and the By-Laws (in that order) shall prevail. If any court determines that any provision of this Declaration is invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or other applications of the provision.

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Article II — Concepts and Definitions

2.1. Defined Terms.

The terms used in the Governing Documents are given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms are defined as follows:

"Affiliate": Any Person which (either directly or indirectly, through one or more intermediaries) controls, is in common control with, or is controlled by, another Person, and any Person that is a director, trustee, officer, employee, independent contractor, shareholder, agent, co-venturer, subsidiary, personal representative, or attorney of any of the foregoing. For the purposes of this definition, the term "control" means the direct or indirect power or authority to direct or cause the direction of an entity's management or policies, whether through the ownership of voting securities, by contract, or otherwise.

"Architectural Guidelines": The architectural, design, and construction guidelines and review procedures adopted pursuant to Article IV, as they may be amended from time to time.

"Architectural Review Board" or "ARB": The committee established, upon delegation or termination of Declarant's authority under Article IV, to review plans and specifications for the construction or modification of improvements and to administer and enforce the architectural controls described in Article IV.

"Articles": The Articles of Incorporation of Triple Creek Homeowners Association Inc., filed with the Secretary of State for the State of Florida, as they may be amended and/or amended and restated from time to time. A copy of the initial Articles is attached to this Declaration as Exhibit "D" and its terms are incorporated herein by reference.

"Association": Triple Creek Homeowners Association, Inc., a Florida not-for-profit corporation, its successors or assigns.

"Attached Dwellings": Townhomes, villas, quads or other dwelling with two or more dwelling units joined by a party wall, or exterior walls.

"Benefited Assessment": Assessments charged against a particular Lot or Lots for Association expenses as described in Section 8.4.

"Board of Directors" or "Board": The body responsible for the general governance and administration of the Association, selected as provided in the By-Laws.

"By-Laws": The By-Laws of Triple Creek Homeowners Association, Inc., as they may be amended and/or amended and restated from time to time. A copy of the initial By-Laws is attached to this Declaration as Exhibit "E" and its terms are incorporated herein by reference.

"CDD": means the Community Development District known as the Triple Creek Community Development District, which has the power to impose taxes or assessments, or both

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taxes and assessments, on this property through a special taxing district. These taxes and assessments pay the construction, operating, and maintenance costs of certain public facilities of the district and are set annually by the governing board of the district. These taxes and assessments are in addition to County and all other taxes and assessments provided for by law.

"Class "B" Control Period": The time period during which the Class "B" Member may appoint a majority of the Board members. The Class "B" Control Period shall end when any one of the following occurs:

(a) 90 days after 90 percent of the parcels in all phases of the community that will ultimately be operated by the homeowners' association have been conveyed to members;

(b) earlier, when, in its discretion, the Class "B" Member so determines.

"Common Area": All real and personal property, including easements, which the Association or CDD owns, holds, leases, or otherwise has a right to possess or use for the common use and enjoyment of the Owners. Common Area includes the Surface Water and Storm Water Management System and the Limited Common Area, as defined below.

"Common Expenses": The actual and estimated expenses which the Association incurs, or expects to incur, for the general benefit of all Owners. Common Expenses include any reserves the Board finds necessary or appropriate.

"Common Maintenance Areas": The Common Area, together with any other area for which the Association has or assumes maintenance or other responsibilities.

"Community" or " **TRIPLE CREEK**": The real property described in Exhibit "A," together with such additional property as is subjected to this Declaration in accordance with Article IX.

"Community Name": Triple Creek and/or such other name or names as Declarant shall designate for all or any portion of the Community.

"Community-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing from time to time throughout the Community, or the minimum standards established pursuant to the Architectural Guidelines, Use Restrictions, and Board resolutions, and CDD regulations, whichever is the highest standard. The Community-Wide Standard may contain objective elements, and subjective elements.

"County": Hillsborough County, Florida.

"Declarant": Triple Creek, LLC, a Delaware limited liability company, or any successor or assign as developer of all or any portion of the Community that is designated as Declarant in a recorded instrument which the immediately preceding Declarant executes. On all matters, Declarant may act through any of its Affiliates. Any Person who at any time holds the rights of

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Declarant hereunder and subsequently transfers or assigns the rights of Declarant to another Person shall be known as a **"Predecessor Declarant"** and, unless otherwise agreed in writing, shall be entitled to the rights of a Predecessor Declarant established in this Declaration. Whether or not specifically stated, a predecessor Declarant shall be afforded the same protection with respect to matters arising from actions taken during its tenure as Declarant as the predecessor Declarant would have if it were still Declarant.

"Development Plan": The land use or site plan for the Community approved by Triple Creek, LLC, as it may be amended from time to time, which includes all of the property described in Exhibit "A" and all or a portion of the property described in Exhibit "B." Declarant is not obligated to submit property shown on the Development Plan to this Declaration. In addition, Declarant may submit property to this Declaration that is not shown on the Development Plan. Reference should be made to Article X of this Declaration to the respective rights and obligations of Owners and Declarant with respect to the use and Development of the Community.

"Development and Sale Period": The period of time during which Declarant and/or its Affiliates own property subject to this Declaration or Declarant holds an unexpired right to unilaterally expand the Community pursuant to Section 9.1.

"District": Southwest Florida Water Management District.

"Governmental Authority": Any federal, state, county, municipal or other governmental or quasi-governmental department, entity, authority, agency or instrumentality having or asserting jurisdiction over the Community or a portion thereof.

"HUD": U.S. Department of Housing and Urban Development.

"Legal Costs": The costs which a Person entitled to reimbursement for "Legal Costs" under any provision of the Governing Documents incurs in pursuing legal action (regardless of whether suit is filed or whether arbitration or court action is taken) to enforce the Governing Documents, including, but not limited to, reasonable attorneys' and paralegals' fees, expert witness fees, and court costs at all tribunal levels.

"Limited Common Area": A portion of the Common Area primarily benefiting one or more, but less than all, Lots or Service Areas, as described in Article XIII.

"Limited Common Expenses": The actual and estimated expenses which the Association incurs, or expects to incur, for the benefit of Owners of Lots benefiting from a Limited Common Area or within a particular Service Area, which may include a reserve for capital repairs and replacements and an administrative charge, as may be authorized pursuant to this Declaration or in the Supplemental Declaration(s) applicable to such Service Area or Lots.

"Lot": A portion of the Community, whether improved or unimproved, which may be independently owned and conveyed, and which is improved, or intended by Declarant to be

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improved, with a dwelling. The term shall refer to the land, if any, which is part of the Lot as well as any improvements on the Lot. The boundaries of each Lot shall be shown on a Plat; however, in the case of Attached Dwellings, each dwelling that may be sold independently shall be a separate Lot.

A parcel of land shall be deemed to be a single Lot until such time as a Plat subdivides all or a portion of the parcel. Thereafter, the subdivided portion shall contain the number of Lots shown on the Plat. Any portion not subdivided shall continue to be a single Lot.

"Member": A Person subject to membership in the Association, as described in Section 6.2. There initially are two membership classes-- Class "A" and Class "B."

"Mortgage": A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Lot and held by an institutional lender. The term "Mortgagee" shall refer to a beneficiary or holder of a Mortgage. The term "Institutional Lender" shall include any bank, savings bank, mortgage company, life insurance company, federal or state savings and loan association, a credit union, real estate or realty investment trust, any agency of the Federal government, the Federal Investment Mortgage Association, the Federal Home Loan Mortgage Corporation, or similar governmental or quasi-governmental agencies.

"Neighborhood": A distinct portion of the Property that has been established by the Declarant as a separate subdivision or area for development and construction of improvements wherein the property and improvements have common characteristics or location.

"Owner": The record title holder to any Lot, but excluding, in all cases, anyone holding an interest merely as security for the performance of an obligation (*e.g.*, a Mortgagee). If a Lot is sold under a recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.

"Permit": Permit issued by the District.

"Person": An individual, a corporation, a partnership, a trustee, or any other legal entity.

"Plat": Any recorded plat for all or any portion of the Community. As to a particular portion of the Community, the applicable Plat shall be deemed to be the Plat (and/or Plat amendment, revision or similar instrument, as applicable) to which such portion of the community is subject or which otherwise affects such portion of the Community at the time this applicable determination is to be made.

"Reviewer": For purposes of Article 4, the **"Reviewer"** is the Person having authority under Article 4 for the review of materials, as provided in Article 4.

"Regular Assessment": Annual assessments levied to fund Common Expenses for the general benefit of all Lots, as determined in accordance with Section 8.1(a).

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"Service Area": A group of Lots designated as a separate Service Area pursuant to this Declaration or a Supplemental Declaration for purposes of sharing Limited Common Areas and/or receiving other benefits or services from the Association which are not provided to all Lots. A Service Area may be comprised of more than one housing type and may include noncontiguous parcels of property. A Lot may be assigned to more than one Service Area. Where the context permits or requires, the term **"Service Area"** shall also refer to a Service Area Committee established in accordance with the By-Laws to represent the interests of Owners of Lots within a Service Area. Service Area boundaries may be established and modified as provided in Section 7.10.

"Service Area Assessments": Assessments levied against the Lots in a particular Service Area to fund Limited Common Expenses, as described in Section 8.1(b).

"Special Assessment": Assessments levied against Lots in accordance with Section 8.3 to cover unbudgeted expenses or expenses in excess of those budgeted.

"Supplemental Declaration": A recorded instrument which subjects additional property to this Declaration and/or imposes additional and/or modified restrictions and obligations on the land described in such instrument.

"Surface Water and Storm Water Management System": A drainage system consisting of swales, inlets, culverts, retention ponds, detention ponds, lakes, outfalls, storm drains and other similar and/or related improvements, and all connecting pipes and easements, which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect quantity and quality of discharges from the system, as permitted pursuant to the Permit issued by the District. The Surface Water and Storm Water Management System facilities include, but are not limited to: all inlets, ditches, swales, culverts, water control structures, retention and detention ponds, lakes, floodplain compensation areas, wetlands and any associated buffer areas and wetland mitigation areas, to the extent that any such facilities, areas, or conditions apply to the Community.

"Use Restrictions": The initial use restrictions, governing activities on the Lots and the Common Areas set forth in Exhibit "C," as they may be changed in accordance with Article III or Article XX or otherwise, as amended from time to time.

"VA": U.S. Department of Veterans Affairs.

"Wetland": Any area within the Community identified or designated as habitat for wetland species of plants and/or animals by the District, or by the County, or by the United States Army Corps of Engineers, or by any other agency of the State of Florida or the United States government, whether or not such area is included within the Surface Water and Storm Water Management System, or is an isolated area that is not connected to the Surface Water and Storm Water Management System.

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2.2. Interpretation of Certain References.

(a) Recording. All references in the Governing Documents to a **"recorded"** legal instrument, or to recordation or the recording of a legal instrument, shall refer to an instrument filed, or the filing of a legal instrument, in the public records of the County, or such other place designated as the official location for filing documents affecting title to real estate in the County in order to make them a matter of public record.

(b) Consent or Approval. All references in the Governing Documents to **"consent"** or **"approval"** shall refer to permission or approval which, unless otherwise expressly qualified in the specific provision, may be granted or withheld in the discretion of the Person whose consent or approval is required.

(c) Discretion and Determinations. All references in the Governing Documents to **"discretion"** or to the right to **"determine"** any matter shall refer to the sole and absolute power, right and/or discretion to decide or act and, unless otherwise expressly limited in the Governing Documents, a Person entitled to exercise its discretion or make a determination may do so without regard to the reasonableness of, and without the necessity of justifying, the decision, determination, action or inaction.

(d) Interpretation. Unless the context expressly requires otherwise, the use of the singular includes the plural, and vise versa, the use of one gender includes all genders; and the use of the term "including" or "include" is without limitation. Wherever any time period in this Declaration, the Articles or the Bylaws is measured in days, "days" means consecutive calendar days, and if such time period expires on a Saturday, Sunday or legal holiday, it shall be extended to the next succeeding calendar day. Unless the context expressly requires otherwise, the term "Common Area", "Common Property", "Lot", and "Property" include any portion applicable to the context and include any and all improvements, fixtures, trees, vegetation and other property from time to time situated thereon. This Declaration shall be construed liberally in favor of the party seeking to enforce its provisions to effectuate its purpose of protecting and enhancing the value, marketability and desirability of the Property as a residential community by providing a common plan for the development and enjoyment thereof.

Article III Occupancy of Lots

3.1. General.

The restrictions set forth in this Section may be amended only in accordance with Article XX and other applicable provisions of this Declaration. In addition to the initial Use Restrictions set forth Exhibit "C" which may be modified as provided herein, the Lots shall be subject to the following:

(a) Residential and Related Uses. Lots shall be used primarily for residential and related purposes (including, without limitation, use as a home office). No business shall be conducted in, on, or from any Lot, except that an occupant using the dwelling on a Lot primarily

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for residential purposes may also conduct business activities on such Lot, if the business activity, as determined in the Board's discretion:

(i) complies with applicable zoning and other legal requirements and other requirements of this Declaration;

(ii) does not involve regular visitation of the Lot by clients, customers, suppliers, or other business invitees; and

(iii) is consistent with the residential character of the Community and does not constitute a nuisance, or a hazardous or offensive use, or threaten the use and enjoyment of other Lots by the Owner thereof or the security or safety of others within the Community.

Notwithstanding the foregoing, the Declarant intends to incorporate into the Community certain land uses that will permit home occupancy in connection with a business. Such uses will be strictly confined to certain areas designated by Declarant and in conformance with approvals for them by Hillsborough County, Florida.

"Business" shall have its ordinary, generally accepted meaning and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves providing goods or services to Persons other than the family of the producer and for which the producer receives a fee, compensation, or other form of consideration, regardless of whether (A) such activity is engaged in full or part time; (B) such activity is intended to or does generate a profit; or (C) a license is required.

No Lot shall be rezoned to any classification allowing commercial, institutional, or other non-residential use without the express written consent of the Association and Declarant, which either may withhold in its discretion. Notwithstanding anything in this Article to the contrary, Declarant or the Association may enforce this covenant by obtaining an injunction against any unapproved rezoning at the expense of the party pursuing the unapproved rezoning, in addition to and not in limitation of Declarant's or the Association's other rights and remedies.

This Section shall not apply to restrict Declarant's, or Declarant's Affiliates', activities, nor shall it restrict the activities of Persons Declarant approves with respect to the development, construction, and sale of property in the Community. This Section shall not apply to Association activities related to the provision of services or to operating and maintaining the Community, including, without limitation, the Community's recreational and other amenities.

Leasing of a single Lot by the Owner thereof for residential occupancy shall not be considered a **"business"** within the meaning of this subsection; however, no Owner or group of Owners who are Affiliates shall, on their own behalf or through any agent, engage in leasing activity with respect to multiple Lots at the same time.

(b) Leasing. For purposes of this Declaration, **"leasing"** is the regular, exclusive occupancy of a dwelling by any Person other than the Owner, for which the Owner receives any

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consideration or benefit, including, without limitation, a fee, service, or gratuity. The improvements on the Lot may be leased only in its entirety (*e.g.*, separate rooms within the same dwelling may not be separately leased); provided, a detached **"in-law suite"** or **"guest house"**, the construction of which was approved pursuant to Article IV, may be independently leased.

All leases shall be in writing and shall have a term of at least six months, except with the Board's prior written consent. No Owner may rent all or a portion of a Lot more than twice in any 12-month period, even if a tenant defaults on a lease or abandons the Lot before expiration of the lease term. The restrictions on lease terms set forth in this paragraph shall not apply to Lots owned or leased by Declarant, its Affiliates, or Persons Declarant approves, in connection with their development, construction, or sale of property in the Community.

All leases shall include an acknowledgment by the tenant that the tenant and all occupants of the leased Lot are bound by and obligated to comply with the Governing Documents and that the tenant has received a copy of the Governing Documents. The Owner shall be responsible for providing a copy of the Governing Documents to the tenant prior to execution of the lease and shall monitor enforcement and compliance with the Governing Documents by the tenant.

Each lease shall set forth the name, address, and telephone number of the Lot's Owner and of the tenant; the date the tenant's occupancy commences and ends; a description of each motor vehicle owned or operated by the tenant or members of the tenant's household; and a description of all pets to be kept at the Lot.

If an Owner elects to permit a tenant to sublease during the term of the lease, such sublease shall be subject to the limitations and requirements established in this Declaration to the same extent and effect as the original lease.

Within 10 days of a lease being signed for a Lot, the Owner shall notify the Board or the Association's managing agent of the lease and provide a copy of such lease and such additional information the Board and/or the Association's Managing Agent may reasonably require. An Owner proposing to lease a Lot may obscure the rental and deposit amounts in the copy of the proposed lease submitted to the Board so long as the lease contains the information listed above. In addition to this subsection (b), the Board may, from time to time, adopt reasonable rules regulating leasing and subleasing.

No Owner may assign or otherwise transfer the Owner's obligations under this Declaration to any tenant. The Association shall have the right to enforce the covenants, conditions, and restrictions set forth in this Declaration against the Owner, the tenant, or any member of the tenant's household, individually or collectively. The Association shall not be bound by any provision in the lease or other agreement between Owner and his or her tenant, including, without limitation, those requiring prior notice or imposing other conditions on the rights of the Association.

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The Association shall be deemed a third party beneficiary of all leases of Lots, and shall have the right, but not the obligation, to enforce the terms and conditions of such leases against the tenant or the Owner. Notwithstanding the foregoing, the Association's failure to object to any term or condition of a lease or occupancy arrangement shall not be deemed to be consent or approval of any term or condition of the lease, nor shall the Association have any obligation whatsoever for the performance of any obligation of Owner or tenant contained in the lease or otherwise.

Notwithstanding any condition of any lease to the contrary, each Owner, by acceptance of the deed to a Lot, hereby covenants and agrees with the Association and all other Owners of Lots in the Community, including, but not limited to, Declarant, that the Owner shall be responsible for any violation of the Governing Documents resulting from the acts or omissions of his or her tenant, other occupants of the leased Lot, and their respective guests to the same extent that Owner would be liable for such violation if it had resulted from the acts or omissions of the Owner or a member of the Owner's household or guests. The Owner's obligations hereunder shall be deemed a guaranty of performance by his or her tenant, and the Association shall have the right to take any action or seek any remedy for the tenant's failure or refusal to comply with the Governing Documents directly from or against the Owner without first taking such action or obtaining such remedy from or against the tenant.

(c) Occupants Bound. Every Owner shall cause anyone occupying or visiting his or her Lot to comply with the Governing Documents and shall be responsible for all violations of the Governing Documents and any damage they cause to the Common Maintenance Areas, notwithstanding the fact that such Persons also are personally responsible for complying and may be sanctioned for any violation.

(d) Subdivision of a Lot. Lots may not be subdivided or their boundary lines changed except with Declarant's or the Board's prior written approval. Declarant may subdivide, change the boundary lines of, and replat any Lot it owns without Board approval. In addition, during the Development and Sale Period, Declarant or any Declarant Affiliate may convert Lots it owns into Common Area.

(e) Lodging; Timeshares. No Lot may be used as a rooming house, hostel, or hotel. Timesharing or other arrangements involving more than three ownership interests in a Lot (including, without limitation, ownership by more than three Persons as joint tenants or tenants-in-common), or assigning separate use periods of less than 180 consecutive days' duration, are prohibited.

3.2. Amendment of Use Restrictions.

(a) The Declarant may change (*i.e.*, modify, cancel, limit, create exceptions to, or add to) the Use Restrictions during the Class "B" Control period. Thereafter, the Use Restrictions may be changed in accordance with the provisions of Article XX, or as otherwise provided in this Declaration. The Board shall send the Members notice of any proposed change at least five business days before the meeting at which such change will be considered. The Members shall have a reasonable opportunity to be heard at such meeting.

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(b) Any change in the Use Restrictions shall be recorded. The Board shall send a copy of the new or changed Use Restriction to each Owner. The change shall become effective upon recording in the public records of the County. The Association shall provide to any requesting Member or Mortgagee, at no charge, a copy of the Use Restrictions then in effect.

(c) In the event of a conflict between the Architectural Guidelines and the Use Restrictions, the Architectural Guidelines shall control. In the event of a conflict between the Use Restrictions and any provision within this Declaration (exclusive of the Use Restrictions), the Declaration provision shall control.

(d) The procedures described in this Section 3.2 are not intended to apply to reasonable rules and regulations, which the Board may adopt by resolution, or other administrative rules, unless the Board chooses, in its discretion, to submit to such procedures; provided all such rules and regulations shall be subject to Declarant's written consent during the Development and Sale Period.

(e) Except as may be set forth in this Declaration (either initially or by amendment) or in the initial Use Restrictions set forth in Exhibit "C", the Association's actions with respect to Use Restrictions and rules must comply with the following:

(i) Displays. Owners' rights to display religious and holiday signs, symbols, and decorations, signs indicating that the Lot is receiving security services, and signs required to comply with or obtain the benefit of applicable laws (e.g. beware of bad dog signs) on their Lots of the kinds normally displayed in residential neighborhoods with homes of comparable type, quality, and price range to those in the Community shall not be further abridged, except that the Association may adopt time, place, size, number, and manner restrictions with respect to such displays.

(ii) Signs. Signs are not permitted within the Community, except those placed by the Declarant or the Association relating to the location of facilities, directional signs, traffic control and street signs. By way of example but not limitation, political signs, "For Sale" or "For Rent" signs, advertising, marketing, or other similar signs are prohibited. No signs shall appear in windows of dwellings or in windows of vehicles. Provided further that signs, regardless of size, used by the Declarant, its successors and assigns, for advertising and marketing during the construction and sale of the Community shall be exempt from this restriction. Notwithstanding the foregoing, certain lots designated "Live/Work Lots" (as described in Section 17.9 herein) may be partially exempt from the provisions of this paragraph.

(iii) Activities Within Dwellings. The Association shall not interfere with activities carried on within a dwelling, except that it may prohibit activities not normally associated with residential property, and it may restrict or prohibit activities that create monetary costs for the Association or other Owners, that create a danger to anyone's health or safety, that generate excessive noise or traffic, that create unsightly conditions visible outside the dwelling,

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that create undesirable odors noticeable to persons outside the dwelling, that are an unreasonable source of annoyance, or that violates a provision of the Governing Documents.

(iv) Alienation. The Association shall not prohibit leasing or transfer of any Lot, or require the Association's or the Board's consent prior to leasing or transferring a Lot. The Association may impose restrictions on leasing, in addition to those set forth in this Article, and may require that Owners use Association-approved lease forms (or include specific lease terms) and may impose a reasonable review or administrative fee on the lease or transfer of any Lot.

(v) Abridging Existing Rights. The Association may not require an Owner to remove or dispose of personal property that was in or on a Lot in compliance with previous rules. This exemption shall apply only during the period of such Owner's ownership of the Lot and shall not apply to subsequent Owners who take title to the Lot after adoption of the rule.

(vi) Right to Develop. The Association may not impede Declarant's right to develop, market, or sell the property described on Exhibits "A" and "B".

The limitations in paragraphs (i) through (iv) of this subsection (e) shall not apply to amendments to this Declaration adopted in accordance with Article XX.

3.3. Owners' Acknowledgment and Notice to Purchasers.

Each Owner, by accepting a deed, acknowledges and agrees that the use, enjoyment, and marketability of his or her Lot is limited and affected by the terms of the Governing Documents, including Use Restrictions and Board rules, which may change from time to time. Copies of the current Use Restrictions and Board rules may be obtained from the Association.

Article IV Architecture and Landscaping

4.1. General.

Except for work done by or on behalf of Declarant or any Declarant Affiliate, no structure or thing shall be placed, erected, or installed upon any Lot, and no improvements of any kind or other work (including, without limitation, staking, clearing, excavation, grading and other site work, exterior alterations or additions, or planting or removal of landscaping) shall take place within the Community, except in compliance with this Article and the Architectural Guidelines.

Any Owner may remodel, paint, or redecorate the interior of any structure on his or her Lot without approval hereunder. However, modifications to the interior of screened porches, patios, and any other portions of a Lot or structure visible from outside a structure are subject to approval under this Article.

Improvements shall be constructed only by qualified Persons acceptable to the Reviewer. Owners shall be responsible for obtaining all permits and approvals from the County and other governmental agencies.

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This Article does not apply to Declarant's, or its Affiliates', activities, nor to the Association's activities during the Class "B" Control Period.

4.2. Architectural Review.

(a) By Declarant. Declarant shall have exclusive authority to administer and enforce architectural controls and to review and act upon all applications for architectural and other improvements within the Community. Declarant's rights under this Article shall continue until five years after termination of the Development and Sale Period, unless Declarant earlier terminates its rights in a recorded instrument. Declarant may designate one or more Persons to act on its behalf in reviewing any application. In reviewing and acting upon any request for approval, Declarant or its designee acts solely in Declarant's interest and owes no duty to any other Person. Further, the Declarant is not required to file any applications for architectural or other improvements within the community while in the Development and Sale Period.

Declarant may from time to time delegate or assign all or any portion of its rights under this Article to any other Person or committee, including the Architectural Review Board. Any such delegation shall be in writing, shall specify the delegated responsibilities, and shall be subject to (i) Declarant's right to revoke such delegation at any time and reassume its prior jurisdiction, and (ii) Declarant's right to veto any decision which it determines, in its discretion, to be inappropriate or inadvisable for any reason. So long as Declarant has any rights under this Article, the jurisdiction of other entities shall be limited to such matters as Declarant specifically delegates.

(b) Architectural Review Board. Upon Declarant's delegation or upon expiration or termination of Declarant's rights under this Article, the Association, acting through the ARB, shall assume jurisdiction over architectural matters. Such person, committee, or ARB shall have the authority to review and approve or reject plans and specifications for the location, size, type or appearance of any structure or other improvement on a Lot. When appointed, the ARB shall consist of at least three, but not more than five, persons. Members of the ARB need not be Members of the Association or representatives of Members, and may, but need not, include architects, engineers, or similar professionals, who may be compensated in such manner and amount, if any, as the Board may establish. The ARB members shall serve and may be removed and replaced in the Board's discretion. The ARB shall appoint the Reviewer who need not be a member of the ARB, nor be an Owner.

Unless and until such time as Declarant delegates any of its reserved rights to the ARB or Declarant's rights under this Article terminate, the Association shall have no power over matters governed by this Article 4.

(c) Fees; Assistance. The Reviewer may establish and charge reasonable fees for its review of applications and may require that such fees be paid in advance. Such fees may include, without limitation, the reasonable costs incurred in having any application reviewed by architects, engineers, or other professionals the Reviewer employs or with whom it contracts.

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The Board may include the compensation of such Persons in the Association's annual operating budget.

4.3. Guidelines and Procedures.

(a) Architectural Guidelines. Declarant may prepare and make available the initial Architectural Guidelines, which may contain general provisions applicable to all of the Community as well as specific provisions that may vary according to location within the Community or product type. The Architectural Guidelines are intended to provide guidance to Owners regarding matters of particular concern to the Reviewer. The Architectural Guidelines are not the exclusive basis for the Reviewer's decisions, and compliance with the Architectural Guidelines does not guarantee an application's approval.

If the same exist, Declarant shall have sole and absolute and full authority to amend the Architectural Guidelines, from time to time, during the Development and Sale Period. Declarant's right to amend shall continue even if its reviewing authority is delegated to the ARB, unless Declarant also delegates the power to amend to the ARB. Upon termination or delegation to the ARB of Declarant's right to amend, the Board may amend the Architectural Guidelines, subject to Declarant's veto right under Section 4.2(a) (if still applicable).

If the same exist, Amendments to the Architectural Guidelines shall be prospective only. They shall not require modifications to or removal of structures, improvements, and other things previously approved once the approved construction or modification has begun. However, any new work or improvements must comply with the Architectural Guidelines as amended.

In Declarant's discretion, the Architectural Guidelines may be recorded, in which event the recorded version, as it may be amended from time to time, shall control in the event of any dispute as to which version of the Architectural Guidelines was in effect at any particular time.

(b) Procedures. Unless the Architectural Guidelines provide otherwise, no construction activities or other activities described in Section 4.1 may begin until a request is submitted to and approved in writing by the Reviewer. The request must be in writing and be accompanied by plans and specifications and other information the Reviewer and/or the Architectural Guidelines require. Plans and specifications shall show, as applicable, site layout, structural design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation, and other features of proposed construction or other activity as the Reviewer deems relevant.

In reviewing each submission, the Reviewer may consider any factors it deems relevant, including, without limitation, harmony of the proposed design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that aesthetic determinations are purely subjective and that opinions may vary as to the desirability and/or attractiveness of particular improvements. The Reviewer shall have the discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment and such determinations are not subject to review so long as they are made in good faith and in accordance with the required procedures.

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The Reviewer shall make a determination on each application within 45 days after receipt of a completed application and all other information the Reviewer requires. The Reviewer may permit or require that an application be submitted or considered in stages, in which case, a final decision shall not be required until 45 days after the final, required submission stage. The Reviewer may (i) approve the application, with or without conditions; (ii) approve a portion of the application, with or without conditions, and disapprove other portions; or (iii) disapprove the application. The Reviewer shall notify the applicant in writing of a final determination on any application. In the case of disapproval, the Reviewer may, but shall not be obligated to, specify the reasons for any objections and/or offer suggestions for curing any objections.

After the initial 45-day period has elapsed, if the Owner has not received notice of the Reviewer's determination, the Owner may make a second written request for approval of the plans previously submitted which shall be marked **"Second Request"**. If the Reviewer fails to respond within seven business days from receipt of the Second Request, approval shall be deemed given. However, no approval (or improvement governed by such approval), whether expressly granted or deemed granted, shall be inconsistent with the Architectural Guidelines or other Governing Documents unless a written variance has been granted pursuant to Section 4.5.

Notwithstanding anything to the contrary in this Declaration or the By-Laws, Owners shall send any such **"Second Request"** via the U. S. Postal Service, certified mail, return receipt requested, or by commercial overnight carrier that obtains a signed receipt upon delivery. A Second Request shall be deemed made, and the 7 business day time period shall commence running, on the date of the Reviewer's actual receipt of the Second Request, as evidenced by its signature on the return receipt provided by the U. S. Postal Service or in the records of the overnight carrier, as applicable.

As part of any approval, the Reviewer may require that construction, landscaping and other approved activities in accordance with approved plans commence and be completed within a specified time period. If such actions do not commence within the required period, the approval shall expire and the Owner must reapply for approval before commencing any activities within the scope of this Article. Once commenced, such activities must be diligently pursued to completion. All elements of the approved activities and/or plans shall be completed within one year of commencement unless a shorter or longer period is otherwise specified in the notice of approval or the Architectural Guidelines, or unless the Reviewer, in its discretion, grants an extension in writing. If approved work is not completed within the required time, it shall be in violation of this Article and shall be subject to enforcement action by the Association or Declarant.

Any approvals granted under this Article are conditioned upon completion of all elements of the approved work, unless written approval to modify any application has been obtained.

Declarant or the ARB, by resolution, may exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution.

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4.4. No Waiver of Future Approvals.

Each Owner acknowledges that the people reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Architectural Guidelines, may vary accordingly. However, the Reviewer may refuse to approve similar proposals in the future. Approval of applications or plans shall not constitute a waiver of the Reviewer's right to withhold approval of similar applications, plans, or other matters subsequently or additionally submitted for approval.

4.5. Variances.

The Reviewer may authorize variances from compliance with the Architectural Guidelines and any procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require or permit. No variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) prevent the Reviewer from denying a variance in other circumstances. A variance requires Declarant's written consent during the Development and Sale Period and, requires the Board's written consent.

4.6. Release of Liability.

This Article establishes standards and procedures as a mechanism for maintaining and enhancing the overall aesthetics of the Community. Review and approval of any application pursuant to this Article may be based on purely aesthetic considerations. The Reviewer is not responsible for the structural integrity or soundness of approved construction or modifications, for compliance with building codes and other governmental requirements, or for ensuring that every dwelling is of comparable quality, value, or size, of similar design, or aesthetically pleasing or otherwise acceptable to other Owners.

Each Owner releases Declarant, Declarant's Affiliates, any predecessor Declarant, the Association, its officers, the Board, the ARB, the Association's managing agent, any committee, or any member of any of the foregoing for the approval of, disapproval of, or failure to approve or disapprove any plans; soil conditions, drainage, or other general site work related to approved work; any defects in plans revised or approved hereunder; any loss or damage arising out of the action, inaction, integrity, financial condition, or quality of work of any owner or their contractor or their subcontractors, employees, or agents; or any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction or activities on or modifications to any Lot. In all such matters or claims related therefrom, the Association shall defend, indemnify and hold harmless the Declarant, Declarant's affiliates, any predecessor Declarant, Board, the ARB, the members of each, and the Association officers as provided in the Articles.

4.7. Enforcement.

Any construction, alteration, improvement, or other work done in violation of this Article or the Architectural Guidelines is subject to enforcement action pursuant to Section 7.4. Any act of any contractor, subcontractor, agent, employee, or invitee of an Owner shall be deemed to be an act done by or on behalf of such Owner.

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Article V Maintenance and Repair

5.1. Maintenance of Lots.

(a) Each Owner must maintain his or her Lot, including, without limitation, all structures, landscaping, and other improvements comprising the Lot, in a manner consistent with the Governing Documents, the Community-Wide Standard, and any other applicable covenants, except to the extent that such maintenance responsibility is assumed by the Association under this Declaration or any Supplemental Declaration or additional covenants applicable to such Lot. In addition, each Owner shall maintain the sidewalk and landscaping located between the boundary of such Owner's Lot and the back-of-curb of any roadway lying adjacent to the boundary of his or her Lot, unless the Association assumes all or part of such maintenance responsibility, and then only to the extent not assumed by the Association.

(b) Declarant or a builder may have constructed or installed drainage swales, drainage lines, and/or other equipment on a Lot for the purpose of managing and/or containing the flow of surface water, if any, found upon such Lot from time to time. Except to the extent that such responsibility is assigned to or assumed by the Association pursuant to this Declaration or any Supplemental Declaration, each Owner shall be responsible for the maintenance, operation, and repair of such drainage swale(s), drainage lines, and other equipment on his or her Lot. Maintenance, operation, and repair shall mean and include, without limitation, the exercise of practices, such as mowing and erosion repair, which allow the drainage swales, drainage lines, and other equipment to provide drainage, water storage, conveyance, or other storm water management capabilities as permitted by the District. Filling, excavation, construction of fences, or otherwise obstructing the surface water flow in or into the drainage swales, drainage lines, and other equipment is prohibited. No alteration of a drainage swale, drainage lines, and other equipment shall be authorized and any damage to any drainage swale, drainage lines, and other equipment, whether caused by natural or human-induced phenomena, shall be repaired and the drainage swale, drainage lines and other equipment returned to its former condition as soon as possible by the Owner(s) of the Lot upon which the drainage swale, drainage lines, and other equipment is located.

(c) Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance includes responsibility for repair and replacement. The maintenance, repair, replacement, and other obligations of the Association and Owner specified in this Declaration shall be performed as and when the Board determines it necessary to maintain the property to a level consistent with the Community-Wide Standard.

5.2. Insurance on Lots; Casualty Losses.

Each Owner shall maintain property insurance providing fire and extended coverage at full replacement cost, less a reasonable deductible, on all insurable improvements located on such Owner's Lot, to the extent such responsibility is not assigned to or assumed by the Association pursuant to this Declaration or any applicable Supplemental Declaration. In addition, every Owner shall be obligated to obtain and maintain at all times insurance covering

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consequential damages to any other Lot or the Common Area due to occurrences originating within the Owner's Lot caused by the negligence of the Owner, the failure of the Owner to maintain the Lot, and any other casualty within the Lot which causes damage to the Lots or the Common Area, to the extent such coverage is not provided by policies maintained by the Association or to the extent insurable losses may result in the Owner's liability for payment of deductibles under the Association's policies. Such insurance policy or policies shall name the Association as an additional insured.

Each Owner shall provide a certificate evidencing such insurance to the Association within 10 days of any written request from the Board of Directors. In addition, if the Board so requests, each Owner shall file with the Association a copy of the individual policy or policies covering his or her Lot. Each Owner shall promptly notify the Board in writing in the event such policy on his or her Lot is canceled. In the event that an Owner fails to obtain any insurance which the Owner is required to obtain hereunder, or permits such insurance to lapse, the Association may, but shall not be obligated to, obtain such insurance on behalf of the Owner and assess the costs thereof to the Owner and the Owner's Lot as a Benefited Assessment.

Regardless of whether the insurance required hereunder is obtained by the Association or the Owners, in the event of a casualty loss, the Association shall be entitled to file a claim against such insurance for the cost of any repair or reconstruction to the Lot and improvements thereon which is the Association's responsibility, and the Owner shall pay the amount of any deductible and shall be responsible for any deficiency in the insurance proceeds. The Association shall be entitled to adjust with the insurance provider the amount of any proceeds payable to the Association and the Owner thereunder, based upon the amount necessary to enable the Owner and the Association each to repair and replace those portions of the Lot and improvements thereon which are their respective responsibilities.

If the Owner is required to obtain insurance hereunder and such insurance is insufficient, the Association shall be relieved of any obligation to maintain, repair, and replace damaged or destroyed portions of the Owner's Lot, to the extent of such insufficiency. Alternatively, the Association may perform required repairs, whether the responsibility of the Association or the Owner, and assess all costs to the Owner and the Owner's Lot as a Benefited Assessment pursuant to Section 8.4.

In the event of damage to or destruction of a structure on a Lot, the Owner shall promptly repair or reconstruct the structure in a manner consistent with the original construction or other plans and specifications approved in accordance with Article IV, except that if the Association has assumed responsibility for insurance coverage hereunder, the Association shall, subject to the limitations above, be responsible for repair or reconstruction of those portions of the structure on the Lot for which the Association has expressly, in writing, assumed insurance responsibility.

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Article VI The Association and its Members

6.1. Function of Association.

The Association is the entity responsible for management, maintenance, operation, and control of the Common Maintenance Areas not maintained by the CDD. The Association also has primary responsibility for administering and enforcing the Governing Documents. The Association shall perform its functions in accordance with the Governing Documents and Florida law. The Board shall be responsible for management of the Association and may contract with a property manager for such purposes. The Board is appointed or elected as provided in the By-Laws. Membership in the Association is appurtenant to and may not be severed from the Lot. The rights and obligations of a Member may not be assigned or delegated except as provided in this Declaration, the Articles of Incorporation, or By-Laws of the Association, and shall automatically pass to the successor-in-interest of any Owner upon conveyance of such Owner's interest in the Lot.

6.2. Membership.

The Association initially shall have two classes of membership, Class "A" and Class "B." Class "A" Members are all Owners except the Class "B" Member. The sole Class "B" Member shall be Declarant. The Class "B" membership shall terminate upon the earlier of (i) three (3) months after 90% of the Lots in all phases of the Community that will ultimately be operated by the Association have been conveyed to Members other than Declarant; or (ii) earlier, in its discretion, if Class "B" Members so determines.

Notwithstanding the above, there shall be only one Class "A" membership per Lot. If a Lot is owned by more than one Person, each co-Owner shares the privileges of the membership, subject to reasonable Board regulation and the voting restrictions described in Section 6.3(a) and in the By-Laws. Co-Owners are jointly and severally obligated to perform the responsibilities of an Owner. The membership rights of an Owner that is not an individual (*e.g.*, a corporation) may be exercised by any officer, director, partner, or trustee, or by an individual the Owner designates from time to time in a written instrument provided to the Association's Secretary.

6.3. Voting.

(a) Class "A". Class "A" Members have one equal vote for each Lot they own, except that there is only one vote per Lot. No vote shall be exercised for any property which is exempt from assessment under Section 8.8.

In any situation where there is more than one Owner of a Lot, the vote for such Lot shall be exercised as the co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Lot's vote shall be suspended if more than one Person seeks to exercise it.

(b) Class "B". The Class "B" Member shall not have any specific number of votes, but may appoint a majority of the Board members during the Class "B" Control Period, as specified

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in the By-Laws, and may exercise the additional rights specified throughout the Governing Documents.

Upon termination of the Class "B" membership, Declarant shall be a Class "A" Member entitled to one Class "A" vote for each Lot it owns.

Article VII Association Powers and Responsibilities

7.1. Acceptance and Control of Common Areas.

(a) The Association may acquire, hold, mortgage or otherwise encumber, lease (as landlord or tenant), operate, and dispose of tangible and intangible personal property and real property, subject to the provisions of Section 16.9. The Association may enter into leases, licenses, or operating agreements, for payment or no payment, as the Board deems appropriate, permitting use of portions of the Common Area by others. Further, Declarant may, before or after Class "B" Control Period, transfer any governmental permits relating to the property described in Exhibits "A" and "B" to the Association and the Association shall accept such assignment.

(b) Declarant or its designees may, from time to time, transfer to the Association, and the Association shall accept, personal property and/or fee title or other property interests in any improved or unimproved real property included within the property described in Exhibit "A" or "B". Subject to the provisions of Section 16.9, upon Declarant's request, the Association shall transfer back to Declarant or its designees, without any payment by Declarant or such designee, any real property which has not been improved by a structure intended for residential occupancy, whether or not such property has been improved by landscaping, decorative walls, signs, irrigation, utilities, or other improvements, if originally conveyed to the Association for no or nominal payment. Those portions of the Community, including but not limited a community center and parks, owned by the CDD shall be managed and maintained by the CDD. Nothing herein shall be deemed a promise or covenant by Declarant to cause such improvements to be constructed.

(c) The Association is responsible for management, operation, and control of the Common Area, subject to any covenants, easements, or restrictions set forth in the deed or other instrument transferring the property to the Association. The Board may, from time to time, adopt such reasonable rules regulating use of the Common Area as it deems appropriate provided such rules shall be subject to Declarant's written approval during the Development and Sale Period. The Association may enter into a property management agreement with any Person, including Declarant or any Declarant Affiliate.

(d) Declarant may elect to construct or install certain improvements or facilities upon portions of the Common Area, but is not obligated to do so and may elect to leave portions of the Common Area in their natural unimproved state. Declarant shall have the absolute right and power to determine what improvements or facilities, if any, will be located on the Common Area during the Development and Sale Period.

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(e) Declarant hereby reserves the right, at all times after conveyance of the Common Area to the Association, to enter the Common Area, without prior notice, and to inspect the condition thereof and the improvements and facilities thereon, if any. If Declarant determines, in its sole judgment, that the Association has failed to maintain any portion of the Common Area in a manner consistent with the Community-Wide Standard, it may so notify the Association, in writing, and the Association shall promptly perform the required maintenance or repairs. Failure of the Association to maintain the Common Area in a manner consistent with the Community-Wide Standard shall relieve Declarant and any predecessor Declarant of any liability to the Association or to any Member for any condition of the Common Area. Declarant shall have the right to make a record of its inspections by any means available, including, but not limited to, photographing and/or videotaping the Common Area, and shall have the right to perform tests or examinations to determine the condition of the Common Area. Notwithstanding the foregoing, Declarant shall have no obligation to perform inspections of the Common Area owned by the Association, and the Association shall not be relieved of its obligation to maintain the Common Area because of the election of Declarant or any predecessor Declarant to inspect or not to inspect or report to the Association the condition of the Common Area.

7.2. Maintenance of Common Maintenance Areas.

The Association or CDD shall maintain the Common Maintenance Areas in accordance with the Community-Wide Standard. The Common Maintenance Areas shall include, but are not limited to (a) the Common Area, including landscaping, structures, and other improvements located on the Common Area; (b) landscaping within public rights-of-way within or abutting the Community, or wetlands if not the obligation of owners; (c) such portions of any additional property or Lots as may be dictated by Declarant, this Declaration, any Supplemental Declaration, any Plat, or any contract, covenant, or agreement for maintenance entered into by, or for the benefit of, the Association; and (d) all ponds, streams, ditches, culverts, and/or wetlands located within the Community which serve as part of the Surface Water and Storm Water Management System, other than those portions located on a Lot and to be maintained by the Owner of such Lot in accordance with Section 5.1 including, without limitation, associated improvements and equipment, any other wetland (whether located in Common Area or a Lot), but not including any such areas, improvements, or equipment maintained by the County, the CDD, or any other governmental or quasi-governmental body. The Association may, but shall not be required, to maintain property abutting the Community.

The CDD shall maintain the Storm Water Management System, littoral shelf, if any, all culverts, ditches, or waterways serving as part of the Storm Water Management System, which maintenance may include appropriate landscaping and plantings.

The Association may maintain other property that it does not own, including, without limitation, property dedicated to the public, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard and the owner of such other property consents. The Association shall not be liable for any damage or injury occurring on or arising out of the condition of property which it does not own except to the extent that it has been grossly negligent in performing its maintenance responsibilities.

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Unless maintained by the CDD, the Association shall maintain the facilities and equipment within the Common Maintenance Areas in continuous operation, except for any periods necessary, as the Board may determine in its discretion, to perform required maintenance, repairs, or replacement, unless Members representing at least 75% of the Class "A" votes agree in writing to discontinue such operation (which may include closing and/or demolishing such facilities or equipment). Notwithstanding the above, the Common Maintenance Areas may not be reduced, nor shall operation of its facilities and equipment be discontinued, without Declarant's prior written approval during the Development and Sale Period.

Unless otherwise provided in this Declaration or any applicable Supplemental Declaration, the costs associated with maintenance, repair, and replacement of the Common Maintenance Areas shall be a Common Expense, except that such costs associated with Limited Common Areas shall be a Limited Common Expense. However, the Association may seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Common Maintenance Areas pursuant to this Declaration, a Supplemental Declaration, or other recorded covenants or agreements.

Unless Declarant expressly agrees in writing with the Association to pay the costs of maintaining any portion of the Common Maintenance Areas, Declarant shall have no such obligation, regardless of any inferences which may be drawn from promotional or other materials.

7.3. Insurance.

The Association shall keep all improvements, facilities, and fixtures located within the Common Areas insured against loss or damage by fire or other casualty for the full insurable replacement value thereof (with reasonable deductibles and normal exclusions for land, foundations, excavation costs and similar matters) and may obtain insurance against such other hazards and casualties as the Association may deem desirable.

(a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect any or all of the following types of insurance, as deemed necessary or advisable in the Board's business judgment and as may be reasonably available: (i) blanket property insurance covering all insurable improvements within the Common Areas to the extent that the Association has responsibility for repair or reconstruction in the event of a casualty, or assumes such responsibility pursuant to Section 5.2, regardless of ownership with full replacement value coverage; (ii) commercial general liability insurance on the Common Maintenance Areas insuring against liability for bodily injury, death, and property damage arising from the activities of the Association or with regards to Common Maintenance Areas, including, without limitation, if obtainable, a cross liability endorsement insuring each Member against liability to each other Member and the Association and vice versa; (iii) directors and officers liability coverage; (iv) commercial crime insurance, including fidelity insurance, covering all Persons responsible for handling Association funds in an amount at least equal to three months of Regular Assessments, plus all reserve funds; (v) to the extent any

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insurable improvements to Common Maintenance Areas are within an "A" flood zone, flood insurance in an amount equal to the lesser of 100% of the replacement costs of all insurable improvements (if any) within the Common Maintenance Areas or the maximum amount of coverage available under the National Flood Insurance Program; and (vi) such additional insurance as the Board, in its business judgment, determines advisable. Notwithstanding the foregoing, Declarant may obtain insurance for multiple communities which it is developing and/or other projects under a blanket policy instead of obtaining a separate policy for the Association, and charge a reasonable portion of the cost thereof to the Association.

In addition, the Association shall, if so specified in a Supplemental Declaration applicable to any Service Area, obtain and maintain property insurance on the insurable improvements within such Service Area. Any such policies shall provide for a certificate of insurance to be furnished upon request to the Owner of each Lot insured.

Unless designated as a Limited Common Area or otherwise provided in a Supplemental Declaration, premiums for Common Maintenance Area insurance shall be a Common Expense.

(b) Policy Requirements. The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Member insured.

To the extent obtainable at reasonable rates, the insurance policy(ies) maintained by the Association may contain provisions, or be accompanied by endorsements, for agreed amount and inflation guard, demolition costs, contingent liability from operation of building laws and increased costs of construction. All insurance policies shall contain standard mortgagee clauses, if applicable.

The policies may contain a reasonable deductible which shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 7.3(a). In the event of an insured loss, the deductible shall be treated as a Common Expense or Limited Common Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or tenants, then the Board may assess the full amount of such deductible against such Owner(s) and their Lots as a Benefited Assessment.

(c) Restoring Damaged Improvements. In the event of damage to or destruction of Common Area or other property for which the Association maintains insurance coverage, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

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(d) Waiver of Subrogation. As to each policy of insurance maintained by the Association which will not be voided or impaired thereby, the Association hereby waives and releases all claims against the Board, the Members, Declarant, any predecessor Declarant, and the directors, trustees, officers, shareholders, attorneys, agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by said Persons, but only to the extent that insurance proceeds are received in compensation for such loss.

Damaged improvements on the Common Area shall be repaired or reconstructed unless Members representing at least 80% of the total Class "A" votes in the Association, if general Common Area, or 80% of the Class "A" votes of Lots to which the Limited Common Area is assigned, if Limited Common Area, and the Declarant during the Development and Sale Period, decide, within 90 days after the loss, not to repair or reconstruct. If either the insurance proceeds or estimates of the loss, or both, are not available to the Association within such 90-day period, then the period may be extended until 90 days after such funds or information are available. No Mortgagees shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed (unless required by FNMA, FHA or VA).

If a decision is made not to restore the damaged improvements, and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive condition consistent with the Community-Wide Standard.

The Association shall deposit any insurance proceeds remaining after paying the costs of repair or reconstruction, or after an agreed-upon settlement, in a capital improvements account for the benefit of the Members. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Lot.

7.4. Enforcement.

(a) The Association, acting through the Board, may impose sanctions for violation of the Governing Documents, subject to the notice and hearing procedures set forth in the By-Laws, as applicable. Such sanctions may include, without limitation:

(i) imposing monetary fines, up to the maximum, if any, permitted by applicable laws, which may accrue from the date of notice (in the event that any occupant, guest or invitee of a Lot violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator; however, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board); and

(ii) suspending the vote attributable to the violating Owner's Lot if permitted and then in accordance with applicable law; and

(iii) suspending the violator's and any guest or invitee of the violator's right to use any recreational facilities that may be built within the Common Maintenance Area; and

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(iv) suspending any services which the Association provides to an Owner or the Owner's Lot if the Owner is delinquent in paying any assessment or other charge owed to the Association for longer than 30 days (or such longer period as is required by HUD or VA if either such agency is insuring or guaranteeing the Mortgage on any Lot or has granted project approvals for such Mortgages); and

(v) without liability to any Person, precluding any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of Article IV and/or the Architectural Guidelines from continuing or performing any further activities in the Community; and

(vi) levying Benefited Assessments pursuant to Section 8.4 to cover costs which the Association incurs to bring a Lot into compliance with the Governing Documents, including Legal Costs, or costs incurred as a consequence of the conduct of an Owner or occupant of a Lot, their guests or invitees.

(b) In addition, but without limitation of the Association's other rights and remedies, the Association, acting through the Board or its designee, may take the following action to enforce the Governing Documents without, to the extent permitted by applicable law, the necessity of compliance with the notice and hearing procedures set forth in the By-Laws:

(i) requiring an Owner, at its own expense, to perform maintenance on such Owner's Lot, to complete any construction or modification approved pursuant to Article IV, or to remove any structure, item or improvement on such Owner's Lot in violation of the Governing Documents and to restore the Lot to its previous condition; or

(ii) entering the property pursuant to the easement granted in Section 11.5 and exercising self-help to remove or cure a violating condition, or to complete any construction or modification approved pursuant to Article IV which was begun and not completed within the required time period, upon failure of an Owner to take action as required pursuant to subsection (i) above within 10 days after the Board's mailing of written notice to do so, and any such entry shall not be deemed a trespass; or

(iii) exercising self-help in any situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations); and/or

(iv) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both, subject to the procedures set forth in Article XV, if applicable and subject to compliance with any applicable provisions of Florida Statutes.

(c) All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents whether brought by the Association, Declarant, or Owner, the prevailing party shall be entitled to recover all Legal Costs incurred in any such action.

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(d) The Association's decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

(i) the Association's position is not strong enough to justify taking any or further action; or

(ii) the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; or

(iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(iv) it is not in the Association's best interests, considering, among other things, hardship, expense, or other reasonable criteria, to pursue enforcement action.

Such a decision shall not be construed a waiver of the right of the Association to enforce such provision at a later time under the same or other circumstances or preclude the Association from enforcing any other covenant, restriction, or rule.

(e) The Association, by contract or other agreement, may enforce applicable governmental regulations and permit a Governmental Authority to enforce ordinances, rules, statutes, or laws within the Community for the benefit of the Association and its Members.

(f) The District and the Association shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration that relate to the maintenance, operation, and repair of the Surface Water or Storm Water Management System.

(g) Declarant shall be entitled to exercise all of the rights and powers granted to the Association under Sections 7.4(a), 7.4(b), and 7.4(c), and shall be entitled to recover all costs that it incurs in so doing from the responsible Owner.

(h) Enforcement of these covenants, conditions and restrictions shall be by any proceeding at law or in equity and may be instituted as provided in the Governing Documents by Declarant, its successors and assigns, the Association, its successors or assigns, or any Owner, against any person or persons violating or attempting to violate or circumvent any covenant, condition or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Association or any Owner or Declarant to enforce any covenant, condition or restriction herein contained for any period of time shall in no event be deemed a waiver or estoppel of the right to enforce same thereafter. Further, the Association shall have the right of self-help to cure any violations that remain uncured after any required notice is given.

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7.5. Implied Rights; Board Authority.

The Association may exercise any right or privilege given to it expressly or by reasonable implication from the Governing Documents, and may take action reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents or by law, all of the Association's rights and powers may be exercised by the Board without a vote of the membership.

The Board may institute, defend, settle, or intervene on the Association's behalf in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Common Maintenance Areas, enforcement of the Governing Documents, or any other civil claim or action unless otherwise limited by law. However, the Board has no legal duty to institute litigation on behalf of or in the name of the Association or the Members. In exercising the Association's rights and powers, making decisions on the Association's behalf, including, without limitation, deciding whether to file a lawsuit under any circumstances, and conducting the Association's affairs, Board members and the Association's officers are subject to, and their actions shall be judged in accordance with, the standards set forth in the By-Laws.

7.6. Provision of Services to Lots.

The Association may provide, or provide for, services and facilities for all or any of the Members and their Lots, and may enter into contracts or agreements with other entities, including, without limitation, Declarant or its Affiliates, to provide such services and facilities. The Board may charge use or service fees for any such services and facilities, or may include the costs in the Association's budget as a Common Expense and assess it as part of the Regular Assessment, if provided to, or determined by the Board to be a benefit to, all Lots. By way of example, such services and facilities might include landscape maintenance, pest control service, cable television service, telephone, internet access, security monitoring, caretaker, transportation, fire protection, utilities, trash collection and recycling, and other services and facilities.

Nothing in this Section shall be construed as a representation by Declarant or the Association as to what, if any, services or facilities shall be provided. In addition, subject to the contract terms, the Board may modify or cancel existing contracts for services in its discretion, unless the services are otherwise required by the Governing Documents. Non-use of services or facilities provided to Owners or Lots as a Common Expense or a Limited Common Expense, shall not exempt any Owner from the obligation to pay assessments for such services or facilities.

7.7. Relationships with Other Properties.

The Association may enter into contractual agreements or covenants to share costs with any neighboring properties to contribute funds for, among other things, shared or mutually beneficial property or services and/or a higher level of maintenance of Common Maintenance Areas.

7.8. Relationship with Governmental and Tax-Exempt Organizations.

The Association may enter into agreements or contracts with, or grant exclusive and/or non-exclusive easements over the Common Area to, state or local governments, public or private

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utility providers, and non-profit, tax-exempt organizations for the benefit of the Community, the CDD, the Association, and the Members. The Association may contribute money, real property (including, without limitation, Common Area), personal property, or services to any such entity. Any such contribution may be a Common Expense and included as a line item in the Association's annual budget.

For the purposes of this Section, a **"tax-exempt organization"** shall mean an entity which is exempt from federal income taxes under the Internal Revenue Code (**"Code"**), such as, but not limited to, entities which are exempt from federal income taxes under Sections 501(c)(3) or 501(c)(4), as the Code may be amended from time to time.

7.9. Right To Designate Sites for Governmental and Public Interests.

During the Development and Sale Period, Declarant may, but is not obligated to, designate sites within the Community for government, education, or religious activities and interests, including, without limitation, fire, police, and utility facilities, schools and educational facilities, houses of worship, parks, and other public facilities. Subject to the approval requirements set forth in Section 16.9, the sites may include Common Area, in which case the Association shall take whatever action is required to permit such use, including dedication or conveyance of the site, if so directed by Declarant.

7.10. Provision of Services to Service Areas.

(a) Declarant, on Exhibit "A" to this Declaration and/or by Supplemental Declaration submitting additional property to this Declaration, may assign the submitted property to one or more Service Areas (by name or other identifying designation) as Declarant deems appropriate, in Declarant's discretion, which Service Areas may be then existing or newly created, and may require that the Association provide benefits or services to the Lots within such Service Area in addition to those which the Association generally provides to all Lots. Until termination of the Class "B" Control Period, Declarant may unilaterally amend this Declaration or any Supplemental Declaration to designate or redesignate Service Area boundaries. All costs associated with the provision of services or benefits to a Service Area shall be assessed against the Lots within the Service Area as a Service Area Assessment.

(b) In addition to Service Areas which Declarant may designate, the Owner(s) of any two or more Lots may petition the Board to designate such Lots as a Service Area for the purpose of receiving from the Association (a) special benefits or services which are not provided to all Lots, or (b) a higher level of service than the Association otherwise provides. Upon receipt of such petition signed by the Owner(s) of a majority of the Lots within the proposed Service Area, the Board shall investigate the terms upon which the requested benefits or services might be provided and notify the Owners in the proposed Service Area of such terms and the charge to be made therefor, which may include a reasonable administrative charge in such amount as the Board deems appropriate in its discretion (provided, any such administrative charge shall apply at a uniform rate per Lot among all Service Areas receiving the same service). Upon written approval of the proposal by Owners of at least 67% of the Lots within the proposed Service Area, and Declarant during the Development and Sale Period, the Association shall provide the requested benefits or services on the terms set forth in the proposal. The cost and administrative

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charges associated with such benefits or services shall be assessed against the Lots within such Service Area as a Service Area Assessment, subject to the right of the Owners of Lots within the Service Area to veto the budget for their Service Area as provided in Section 8.1.

(c) The Board may, by resolution, designate a group of Lots as a Service Area and levy Service Area Assessments against such Lots to fund the costs of operating, maintaining, repairing, replacing and/or insuring certain portions of the Common Maintenance Area within or adjacent to such Service Area. This may include, without limitation, the costs of maintaining any signage, entry features, right-of-way, and greenspace between the Service Area and adjacent public roads, private streets within the Service Area, and lakes or ponds within the Service Area, regardless of ownership and regardless of the fact that such maintenance may be performed by the Association; however, all similarly situated Lots shall be treated the same. Any such designation shall require the consent of Declarant during the Development and Sale Period.

7.11. Responsibilities Under Governmental Permits.

Declarant shall have the absolute and unconditional right in its sole discretion to assign, delegate, or otherwise transfer to the Association any of its continuing obligations and/or responsibilities under governmental permits and approvals with respect to the Community, including, without limitation, its continuing obligations with respect to the Surface Water and Storm Water Management System under the Permit. The Association shall accept and assume such obligations and responsibilities without condition or consideration. Such assignment, delegation, or transfer and assumption shall be effective without the consent of, or any further action by the Association, but upon Declarant's request, the Association shall promptly execute any documents which Declarant requests to evidence the assignment, delegation, or transfer and assumption of such obligations and/or responsibilities. The Association shall comply in all respects with the terms of, and shall not undertake any activity inconsistent with, such permits and approvals. The Association shall indemnify, defend and hold Declarant harmless from any claims or losses arising out of the violation or failure to comply with any permit(s), or out of the operation, maintenance or use of any improvement or facility authorized by the permit(s), provided such claim or loss first occurs after the effective date of the assignment, delegation, transfer (or tender of the assignment, delegation, or transfer, if wrongfully refused by an Association).

7.12. Waterways; Water Level and Use.

With respect to any waterways now existing or which may hereafter be contained within or adjoining the Community, only Declarant (and after termination of the Class "B" Control Period, the Association) or CDD shall have the right to pump or otherwise remove any water from such waterways for the purposes of irrigation or other use or to place any matter or object in such waterways. No docks, moorings, pilings, boat shelters, or other structure shall be erected on or over the waterways, except as may be erected or approved in writing by Declarant, the District if applicable, (and following the termination of the Class "B" Control Period, the Association or the ARB). Subject to the provisions of this Declaration, and applicable law, the Association shall have the right and, to the extent required by the terms of Section 7.14 or any applicable governmental permit or ordinance, the obligation, to control the growth and eradication of plants, fowl, reptiles, animals, fish, fungi and other growth in, on and around such waterways. No boats

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or watercraft of any kind shall be permitted within any waterways located within or adjacent to the Community with the exception of normal and customary maintenance of such waterways.

7.13. Surface Water and Storm Water Management System.

(a) Maintenance, Operation, and Monitoring. The CDD or the Association shall maintain, as part of the Common Maintenance Areas, the Surface Water and Storm Water Management System and shall comply with conditions of the permits from the Southwest Florida Water Management District, the United States Army Corps of Engineers ("Corps of Engineers"), the County, or the State of Florida for the Surface Water and Storm Water Management System and wetlands within the Community. The Association or the CDD shall, when requested by Declarant, apply for the issuance of, or accept assignment of, all Southwest Florida Water Management District, Corps of Engineers, County and State of Florida permits for the Community (as the Community may be expanded by the annexation of additional phases as herein contemplated) and shall be designated as the "permittee" thereof. The conditions of the permits include monitoring and record keeping schedules, and maintenance. The following additional conditions shall apply:

(i) The CDD or the Association shall hold and save the Southwest Florida Water Management District, Corps of Engineers, County and the State of Florida harmless from any and all damages, claims, or liabilities which may arise by reason of the operation, maintenance, or use of any improvement or facility authorized by the permits.

(ii) The CDD or the Association shall at all times properly operate and maintain the systems of treatment and control (and related appurtenances) that are installed or used to achieve compliance with conditions of the permits, as required by the Southwest Florida Water Management District, Corps of Engineers, County, and/or the State of Florida. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the permits and when required by the Southwest Florida Water Management District, Corps of Engineers, County, and State of Florida rules.

(iii) The CDD or the Association specifically agrees to allow authorized Southwest Florida Water Management District, Corps of Engineers, County, and State of Florida personnel, upon representation of credentials or other documents as may be required by law, access to the Common Maintenance Areas where the permitted activity is located or conducted at all reasonable times for the purposes of inspection and testing to determine compliance with the permits and Southwest Florida Water Management District, Corps of Engineers, County and the State of Florida regulations, such as:

(A) having access to and copying any records that must be kept under the conditions of the permits; and

(B) inspecting the facilities, equipment, practices, or operations regulated or required under the permits; and

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(C) sampling or monitoring any substances or parameters at any location reasonably necessary to assure compliance with the permits or Southwest Florida Water Management District, Corps of Engineers, County and State of Florida rules; and

(D) gathering of data and information.

Reasonable time may depend on the nature of the concern being investigated.

(iv) Establishment and survival of littoral areas, if any provided for storm water quality treatment in wet detention systems shall be assured by proper and continuing maintenance procedures designed to promote viable wetlands plant growth of natural diversity and character. Following as-built approval, perpetual maintenance shall be provided for the permitted system.

(v) The CDD or the Association shall submit inspection reports in the form required by the Southwest Florida Water Management District, Corps of Engineers, County, and State of Florida, in accordance with the following schedule unless specified otherwise here or in permit applications:

(A) for systems utilizing effluent filtration or exfiltration, the inspection shall be performed 18 months after operation is authorized and every 18 months thereafter; and

(B) for systems utilizing retention and wet detention, the inspections shall be performed two years after operation is authorized and every two years thereafter.

(vi) It shall be the responsibility of each Owner at the time of construction of a building, residence, or other structure on such Owner's Lot, to comply with the construction plans for the Surface Water and Storm Water Management System pursuant to Chapter 40D, F.A.C., approved and on file with the Southwest Florida Water Management District.

(vii) It is the Owner's responsibility not to remove native vegetation (including cattails) that become established within the wet detention ponds abutting their Lot. Removal includes dredging, the application of herbicide, the introduction of carp grass and cutting. If the Community includes a wetland mitigation area or wet detention pond, no vegetation in such area shall be removed, cut, trimmed, or sprayed with herbicide without specific written approval from the Southwest Florida Water Management District and the Corps of Engineers. Owners should address any question regarding authorized activities within any wet detention pond to the Southwest Florida Water Management District, and the Corps of Engineers.

(viii) No Owner may construct or maintain any building, residence, or structure or undertake or perform any activity in the wetland(s), wetland mitigation area(s), buffer area(s), upland conservation area(s), and drainage easement(s) described in approved permits and recorded Plats, unless prior approval is received from both the Southwest Florida Water

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Management District Regulation Department pursuant to Chapter 40D, F.A.C., and from the County. If such activities are subject to Corps of Engineers or State of Florida permits, approval of those agencies shall also be obtained before any such activity is commenced.

(ix) Neither the Association nor any Owner shall engage in any construction related activities within any part of the Surface Water and Storm Water Management System or wetlands unless such activities have been approved in writing by the Southwest Florida Water Management System, or are specifically authorized by the conditions of the applicable permits. Without limitation, the following activities are deemed construction related and are prohibited unless authorized in accordance with this subsection: digging or excavation; depositing fill, debris, or any other material or item; constructing or altering any water control structure; or any other construction to modify the Surface Water and Storm Water Management System or wetland facilities. If such activities are subject to the Corps of Engineers, County, or State of Florida permits, approval of those agencies shall also be obtained before any such activity is commenced.

(x) The Association, through its Board, shall be responsible for enforcing the provisions of this Declaration; however, in addition to enforcement by the Association, Declarant hereby reserves unto itself, and grants to the County and the Southwest Florida Water Management District, the non-exclusive right, but not the obligation, to enforce the provisions of this Declaration concerning compliance with the Surface Water and Storm Water Management System and wetland permits, all applicable federal, state, and local laws, ordinances, and regulations, and all applicable rules and regulations of the Association against any person or entity in violation including the Owners, the Association, Builders, Affiliates of Declarant, and Declarant by the exercise of any remedies available at law or in equity, or otherwise provided in this Declaration for the protection and benefit of the Association, its Members, and the Community. Notwithstanding anything in this Declaration to the contrary, in the event that the County or the Southwest Florida Water Management District elects to take enforcement action against any Owner, Declarant, Declarant Affiliate, the Association, or any other Person for violation of the terms of any permit, law, ordinance, rule, or regulation, such enforcement shall not be subject to the dispute resolution provision of Article XV of this Declaration.

(b) Effect of Dissolution. In the event of the termination, dissolution, or final liquidation of the Association, the responsibility for the operation and maintenance of the Surface Water and Storm Water Management System and wetlands must be transferred to and accepted by an entity which would comply with Section 40D, F.A.C., and be approved by the Southwest Florida Water Management District prior to such termination, dissolution, or liquidation. In the event that no other entity exists to receive such transfer, the obligations of the Association shall be deemed assumed by the Owners, and all such Owners shall be jointly and severally responsible for the operation and maintenance of the Surface Water and Storm Water Management System and wetlands in accordance with the requirements of the permits.

(c) Shared Facilities. Certain provisions of the Surface Water and Storm Water Management System may serve the drainage needs of adjacent lands not owned by Declarant and not within the Community. Declarant reserves the right to grant such drainage and/or use such

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easements and rights as Declarant may deem necessary or appropriate for accomplishing the drainage needs of the Community and/or lands owned by others provided that such agreements shall not unreasonably interfere with the use of the system by the Owners or unreasonably increase the cost of maintenance of the system by the Association.

7.14 Association Ownership of Lots.

(a) The Declarant reserves the right to deed any Lots to the Association and may restrict the use of such Lots in any way that is consistent with the covenants and limitations of this Declaration

Article VIII Association Finances

8.1. Budgeting and Allocating Common Expenses.

(a) Calculation of 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 8.2 for periodic major maintenance, repair and replacement of items that the Association maintains as a Common Expense. The budget may include, as a separate line item in the operating expense portion of the budget, the estimated cost of capital improvements and deferred maintenance of facilities and improvements for which is has responsibility. 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 Association is authorized to levy Regular Assessments to fund the Common Expenses against all Lots subject to assessment under Section 8.5, in the proportions described in Section 8.5. In determining the Regular Assessment rate, the Board may consider any assessment income expected to be generated from any property anticipated to become subject to assessment during the fiscal year.

Declarant may, but shall not be obligated to, reduce the Regular Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 8.6(b)) which may be either a contribution, an advance against future assessments due from Declarant, or a loan, in Declarant's discretion. Any such subsidy shall be disclosed as a line item in the income portion of the budget. The payment of such subsidy in any year shall not obligate Declarant to continue paying a subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.

The Board shall adopt the budget and any assessments at a regular meeting thereof. Any increase in annual assessments from the previous year shall not exceed fifteen percent (15%). 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 30 days prior to the meeting that will consider any assessment. The budget and assessment shall take effect on such date of the

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meeting unless disapproved by Members representing 75% of the total Class "A" votes and by Declarants during the Class:"B" Control Period.

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) Calculation of Service Area Assessments. Before the beginning of each fiscal year, the Board shall prepare a separate budget for each Service Area of the estimated Limited Common Expenses which it expects to incur on behalf of such Service Area for the coming year, including any contributions to be made to a reserve fund pursuant to Section 8.2 for periodic major maintenance, repair and replacement of items that the Association maintains on behalf of the Service Area as a Limited Common Expense. The budget shall separately reflect the anticipated sources and estimated amounts of funds to cover the Limited Common Expenses, including any surplus or deficit to be applied from prior years, assessment income, any fees charged for use of recreational amenities maintained on behalf of the Service Area, and any other non-assessment income.

The Association is authorized to levy Service Area Assessments, to fund the Limited Common Expenses for each Service Area, against all Lots in the Service Area that are subject to assessment under Section 8.5, in the proportions described in Section 8.5, except that, unless otherwise specified in the applicable Supplemental Declaration, any portion of the assessment intended for exterior maintenance of structures, insurance on structures, or replacement reserves which pertain to particular structures, may be levied on each of the benefited Lots in proportion to the benefit received, as the Board may reasonably determine. In determining the Service Area Assessment rate for any Service Area, the Board may consider any assessment income expected to be generated from any property in the Service Area anticipated to become subject to assessment during the fiscal year.

Declarant may, but shall not be obligated to, reduce the Service Area Assessment applicable to any Service Area for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 8.6(b)) which may be either a contribution, an advance against future assessments due from Declarant, or a loan, in Declarant's discretion. Any such subsidy shall be disclosed as a line item in the income portion of the budget. The payment of such subsidy in any year shall not obligate Declarant to continue paying a subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.

The Board shall adopt the budget and any assessments at a regular meeting thereof. The Board shall send a summary of the proposed budget and notice of the Service Area Assessment to be levied pursuant to such budget to each Owner at least 30 days prior to the meeting that will consider the assessment. The budget and assessment shall automatically take effect on such date

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unless disapproved at a meeting by Members representing 75% of the total Class "A" votes and by Declarant during the Class "B" Control Period.

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.

All amounts that the Association collects as Service Area Assessments shall be expended solely for the benefit of the Service Area for which they were collected and shall be accounted for separately from the Association's general funds.

8.2. Budgeting for Reserves.

The Board shall prepare and periodically review separate reserve budgets for the Common Maintenance Area, and for each Service Area for which the Association maintains capital items as a Limited Common Expense, 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 Section 8.1(a), or the Service Area budgets adopted pursuant to Section 8.1(b), as appropriate, 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. Reserve funds collected for each Service Area shall be segregated from reserves collected for Common Maintenance Areas or other Service Areas.

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 during the Development and Sale Period.

8.3. 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. Any such Special Assessment may be levied against the entire membership, if such Special Assessment is for Common Expenses, or against the Lots within any Service Area, if such Special Assessment is for Limited Common Expenses. 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, during the Development and Sale Period. 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.

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8.4. Benefited Assessments.

The Association may levy Benefited Assessments against one or more particular Lots as follows:

(a) to cover the costs, including, without limitation, overhead and administrative costs, of providing services to a Lot upon request of the Owner pursuant to any menu of special services which the Association may offer (which might include the items identified in Section 7.6 or Section 8.10) or pursuant to a Supplemental Declaration. Benefited Assessments for special services may be levied in advance of the provision of the requested service; and

(b) 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, subject to the limitations of Section 7.4, as applicable.

8.5. 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. Except as otherwise provided in Section 8.1(b) or in any applicable Supplemental Declaration, Service Area Assessments shall be allocated equally among all Lots subject to assessment in the benefited Service Area. The first annual Regular Assessment and Service Area Assessment, if any, 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 and Service Area 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.

With respect to any Neighborhood or Service Area served by a public water system utilizing a master meter for such Neighborhood or Service Area, each Owner within such area shall be assessed equally as to water usage. Any amendment to this Section 8.5 that modifies such equal assessments for these areas shall not become effective unless the Association first notifies the County Health Department.

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8.6. Obligation for Assessments.

(a) 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 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 continuing 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 and Service Area Assessments, if any, 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 Maintenance Area, 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.

(b) Declarant's Option to Fund Budget Deficits. Notwithstanding anything to the contrary contained in this Declaration, to the extent permitted by Florida law, during the Class "B" Control Period, 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. Declarant shall have no obligation to contribute to reserves. Unless Declarant otherwise notifies the Board in writing at least 30 days 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 termination of the

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Class "B" Control Period, Declarant shall pay assessments on Lots which it or its Affiliates own in the same manner as any other Owner.

(c) Declarant's Right to Loan or Advance Funds. Declarant may (but is not obligated to) loan, advance or otherwise make payments to the Association to assist the Association in meeting its financial obligations, in addition to Declarant's obligation to pay assessments or fund the deficit under Section 8.5 or 8.6(b). Notwithstanding anything to the contrary contained in this Article 8, if Declarant loans, advances or otherwise pays assessments in excess of its obligations under Sections 8.5 or 8.6(b) then any such sums shall be repaid to the Declarant prior to the termination of the Class B Control Period.

8.7. Lien for Assessments.

The Association may record a lien against any Lot, including Declarant's Lots, to secure payment of assessments that remain unpaid for a period of 30 days or longer after becoming due. For purposes of this Section, assessments shall include interest, late charges (subject to Florida law), and Legal Costs. 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.

Notwithstanding the above, and subject to applicable law, the Board may designate assessments or charges levied solely for the purpose of funding Common Expenses related to acquisition, development, or construction of infrastructure or capital improvements serving the Community (or to pay the cost to underwrite, service, and repay any debt incurred to finance any such acquisition, development, or construction) as a **"Capital Improvement Assessment",** and the lien therefor shall be superior to (a) the Association's lien for other Common Expenses and Limited Common Expenses, and (b) all other liens except those deemed superior under federal or Florida law and which may not be made subordinate by this provision.

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 8.5, 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

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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.

8.8. Exempt Property.

The following property shall be exempt from payment of Regular Assessments, Service Area Assessments, and Special Assessments:

(a) All Common Area and other portions of the Community which are not Lots; and

(b) Any property dedicated to and accepted by any governmental authority or public utility.

8.9. Initial One-Time Assessment.

The Association hereby establishes an initial one-time assessment of $500.00 (the "Initial Assessment") applicable to each Lot. 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.

No further Initial Assessment shall be due for any subsequent transfer of ownership of any Lot from one Class "A" Member to a successor Class "A" Member.

8.10. Use and Consumption Fees; Licenses and Royalties.

The Board may charge use and consumption fees to any Person using Association services or facilities and may determine the amount and method of determining such fees. Different fees may be charged to different classes of users (*e.g.,* Owners and non-Owners). Any such fees charged to Owners shall be considered a Benefited Assessment against the Lots of such Owners under Section 8.4(a).

As set forth in Section 10.7, the Association may enter into license agreements with Declarant or other parties to permit the Association's use of trade names or service marks (*e.g.*, use of the name **"TRIPLE CREEK"**). To the extent permitted by such license agreements, the Board may enter into sub-license agreements, under negotiated terms, which permit others within the Community to use such trade names and/or service marks. The Association may charge fees and collect royalties in connection with such sub-license agreements; provided, Declarant and any Declarant Affiliate shall retain the absolute right to use such trade names and service marks without payment of any license fees. Any such fees and royalties shall be considered a Benefited Assessment under Section 8.4(a).

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Article IX Expansion of the Community

9.1. Annexation by Declarant.

Declarant may, from time to time, subject to this Declaration all or any portion of the property described in Exhibit "B" by recording a Supplemental Declaration describing the property being subjected. A Supplemental Declaration recorded pursuant to this Section shall not require the consent of any Person except the owner of such property, if other than Declarant.

Declarant's right to annex property pursuant to this Section expires when all property described in Exhibit "B" has been subjected to this Declaration or fifteen (15) years after this Declaration is recorded, whichever is earlier. Until then, Declarant may transfer or assign this right, in whole or in part, to any Person who is the developer of at least a portion of the real property described in Exhibit "A" or "B." Any such transfer shall be memorialized in a recorded instrument executed by Declarant.

Nothing in this Declaration shall require Declarant or any successor to subject additional property to this Declaration or to develop any of the property described in Exhibit "B" in any manner whatsoever.

Declarant intends to develop the Community in accordance with the Development Plan, but hereby reserves the right to modify the Development Plan and any Plat from time to time in its discretion and at its option. Declarant shall not be required to follow any predetermined order of improvement and development within the Plat or Community; and it may annex additional lands and develop them before completing the development of the Community.

9.2. Annexation by the Association.

The Association also may annex property to the provisions of this Declaration by recording a Supplemental Declaration describing the additional property. Annexation by the Association shall require the affirmative vote or written consent of Members representing more than 50% of the Class "A" votes and the consent of the property owner. In addition, during the Development and Sale Period, Declarant's written consent is required. The Supplemental Declaration shall be signed by the President and Secretary of the Association, by the owner of the property, and by Declarant, if Declarant's consent is required.

In the event that either the U.S. Department of Housing and Urban Development or the U.S. Department of Veterans Affairs insures or guarantees any Mortgage encumbering a Lot, and the regulations or procedures of such agency require under such circumstances approval of annexations by such agency or determination by such agency that such annexation is consistent with the general plan of development for the Community, then such approval or determination as described in Section 16.9 shall be a prerequisite to such annexation.

9.3. Additional Covenants and Easements.

By Supplemental Declaration, Declarant may impose additional covenants, restrictions and easements on portions of the Community, including, without limitation, covenants obligating

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the Association to maintain and insure specific property and authorizing the Association to recover its costs through Benefited Assessments or through Service Area Assessments. If someone other than Declarant owns the property, then such owner's consent and execution of the Supplemental Declaration is required. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

9.4. Effect of Filing Supplemental Declaration.

A Supplemental Declaration shall be effective upon recording. Unless otherwise specified in the Supplemental Declaration, the Lots subjected to this Declaration by such Supplemental Declaration shall have equal voting rights in the Association and equal pro rata liability for Regular Assessments with all other Lots.

Article X Additional Rights Reserved to Declarant

10.1. Withdrawal of Property.

Declarant reserves the right to amend this Declaration, until termination of the Development and Sale Period, to remove from the coverage of this Declaration any property which has not been improved by a structure intended for occupancy, whether or not such property has been improved by landscaping, decorative walls, signs, irrigation, utilities, or other improvements. Such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not Declarant. Except as provided in Section 7.1(b), if the property is Common Area, the Association's consent is required for such withdrawal.

10.2. Marketing and Sales Activities.

Notwithstanding anything in the Governing Documents to the contrary, Declarant, its Affiliates, and their assigns and builders authorized by Declarant may construct, maintain, and operate upon portions of the Common Area and property they own, such facilities, activities, and things as, Declarant, in its discretion, may deem to be required, convenient, or incidental to the construction or sale of Lots in this Community and in any other Community developed by Declarant. Such permitted facilities, activities, and things shall include, without limitation, business offices, signs, flags (whether hung from flag poles or attached to a structure), model homes, sales offices, holding or sponsoring special events, and exterior lighting features or displays. In addition, if reasonably required, convenient, or incidental to construction or sales activities, Declarant, Declarant's Affiliates, and their assigns, and authorized builders may park vehicles in areas other than garages or driveways, including, without limitation, on streets.

10.3. Right to Develop.

Declarant and its Affiliates, and their respective employees, agents, and designees, shall have a right of access and use, and an easement over, upon, and under, all of the Common Area for the purpose of making, constructing, and installing such improvements to the Common Area, the Exhibit "A" property and to the Exhibit "B" property, as Declarant deems appropriate in

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Declarant's discretion.

Each Owner acknowledges that the development of the Community may extend over a number of years, and agrees and consents to all changes in (a) uses or density of Lots or dwellings within the Community, and/or (b) the Development Plan.

Notwithstanding anything contained in any written letter, document or materials, or oral statement received by any Owner, each Owner acknowledges and agrees that the present plans and themes for the Community's development may change and that such Owner has not relied on any representation, warranty, or assurance by any Person (a) that any Lots, or other property or facilities, will be added, modified, or eliminated within the Community; or (b) as to the financial or other impact of such action on any Owner. Each Owner acknowledges and agrees that it is not entitled to rely upon and has not received or relied upon any representations, warranties, or guarantees whatsoever as to the current or future: (a) design, construction, completion, development, use, benefits, or value of property within the Community; (b) number, types, sizes, prices, or designs of any residential or non-residential structures or improvements built or to be built in any part of the Community; or (c) use or development of any property adjacent to or within the vicinity of the Community.

10.4. Right to Approve Changes in the Community Standards.

No amendment to or modification of any Use Restrictions, rules, or the Architectural Guidelines during the Development and Sale Period shall be effective without prior notice to and the written approval of Declarant.

10.5. Right to Transfer or Assign Declarant Rights.

Any or all of Declarant's rights and obligations set forth in this Declaration or the By-Laws may, except to the extent restricted by Florida law, be transferred, in whole or in part, from time to time, to other Persons. No such transfer or assignment shall be effective unless it is in a recorded instrument signed by Declarant. Declarant may allow other Persons to exercise, on a one-time or limited basis, any Declarant right without transferring the entire right. In such case, a recorded instrument is not required.

10.6. Community Systems and Services.

Declarant reserves for itself, its successors and assignees, and grants to the Association (after Declarant no longer owns any property described on Exhibit "A" or "B" or at such earlier time as Declarant elects in writing) the exclusive and perpetual right to provide and operate, or to permit others to provide and operate, within the Community, such telecommunication systems (including, without limitation, cable television, community intranet, internet, and other systems for receiving, distributing, and transmitting electronic data, signals, and audio or visual communications), security systems and services, utilities, trash collection, and other systems and services, including, without limitation, conduits, wires, amplifiers, towers, antennae, and other apparatus and equipment for the operation or provision thereof (collectively, the **"Community Systems and Services"**) as Declarant, in its discretion, deems appropriate. Such right shall include, without limitation, the right to select and contract with companies licensed, if

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applicable, to provide such services in the vicinity of the Community, and to charge individual users a fee not to exceed the maximum allowable charge for such service, as from time to time is defined by the laws, rules, and regulations of the relevant government authority, if applicable. Declarant may receive, and shall be entitled to retain, any rebate, credit, fee, or incentive relating to the installation, operation, or provision of any Community Systems and Services.

During the Development and Sale Period, Declarant may require that the Association enter into agreements for the provision of Community Systems and Services to all Lots as a Common Expense, or to Lots within a particular Service Area as a Service Area Expense. If particular services or benefits are provided to particular Owners or Lots at their request, the benefited Owner(s) shall pay the service provider directly for such services, or the Association may assess the costs as a Benefited Assessment.

10.7. Rights To Use Names; License Agreements.

The Community Name, the name **"Triple Creek, LLC", "M/I Homes of Tampa, LLC"** or **Centex Homes",** and all similar or derivative names, along with all logos associated therewith, are the proprietary trade names and service marks of Centex Homes, Declarant, M/I Homes of Tampa, LLC, or their Affiliates. No Person shall use such trade names or service marks for advertising or any other purpose in any promotional material, whether printed, audio, video, or otherwise, in any signage, or in any logo or depiction or in any other fashion or manner without the prior written consent of the Person who owns such mark in each instance. In addition, due to the integrated nature of the Community as a planned community, and the public identification of the Lots with the Community, any name or "logo" to be used in connection with or displayed on any Lot, and any sales or other materials or documentation related to the use of the Lot, shall be subject to Declarant's prior written consent in each instance. Such approval may be given or withheld in Declarant's discretion and may be subject to such terms and conditions as Declarant deems appropriate in Declarant's discretion.

Notwithstanding the above, Owners may use the name **"TRIPLE CREEK"** where such term is used solely to specify that their particular Lot is located within the Community (subject, however, to such terms and conditions as Declarant may impose in order to protect any registered trade names and service marks).

The mark or trademark owner may condition such use of the mark by the Association or any Owner upon the signing of one or more license agreement(s) which are intended to protect the trade names and service marks from unauthorized use by others. Such license agreement(s) shall be non-exclusive, non-transferable, in form and substance acceptable to the owner of the mark.

10.8. Easement to Inspect and Right to Correct.

Declarant reserves for itself and others it may designate, from time to time, the right to inspect, monitor, test, redesign, modify and correct any structure, improvement, or condition which may exist on any portion of the Community, including Lots, and a nonexclusive easement of access throughout the Community to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Lot shall be only after reasonable notice to the Owner and

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no entry into a dwelling or other structure on a Lot shall be permitted without the Owner's consent, which consent shall not unreasonably be withheld, conditioned, or delayed. The failure or refusal to permit reasonable access to the Lot for the purposes contemplated under this paragraph shall excuse Declarant or its designee from responsibility for repairs or damages. The Person exercising this easement shall promptly repair, and pay for, any resulting damage. The provisions of this paragraph do not impose any obligation on Declarant or any other Person to perform any such inspection, monitoring, testing, redesigning, modification, or correction.

10.9. Right to Notice of Design or Construction Claims.

No Person shall retain an expert for the purpose of inspecting the design or construction of any structures or improvements within the Community in connection with or in anticipation of any potential or pending claim, demand, or litigation involving such design or construction unless Declarant has been first notified in writing and given an opportunity to meet with the property Owner and conduct an inspection.

10.10. Termination of Rights.

Rights granted Declarant under this Article (other than the rights granted in Sections 10.6 and 10.7) shall terminate upon the earlier of (a) the period specified in the particular Section, if any; or (b) 25 years from the date this Declaration is recorded. Thereafter, Declarant may continue to use the Common Areas for the purposes stated in this Article only pursuant to a rental or lease agreement between Declarant and the Association which provides for rental payments based on the fair market rental value of any such portion of the Common Areas. Notwithstanding the above, Declarant reserves for itself and its Affiliates a perpetual, non-exclusive easement of access to and use of the Common Areas in connection with the marketing and sale of other properties in order to show the Community as an example of Declarant's projects. This Article shall not be amended without Declarant's prior written consent.

10.11. Exclusion of Declarant's Other Properties.

By accepting a deed to a Lot, each Owner specifically acknowledges that nothing contained in this Declaration shall, in any way, either expressly or by implication, restrict, limit, or otherwise affect the use or disposition by Declarant or any Declarant Affiliate of any property either of them owns, whether contained within or contiguous to the Community. Declarant and its Affiliates shall have full, free, and unrestricted use of its and their other lands, notwithstanding any incompatibility of such use with restrictions this Declaration imposes upon the Lots. By accepting a deed to a Lot, each Owner, specifically and expressly disclaims any reciprocal negative easement in any property Declarant owns.

Article XI Easements

11.1. Easements in Common Area.

Subject to the provisions below, every Owner shall have a right to use and an easement of enjoyment in and to the Common Areas or Limited Common Areas as applicable, which shall be appurtenant to and shall pass with the title to the Lot owned by such Owner. Declarant grants to

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each Owner a right and easement of use, access, and enjoyment in and to the Common Area, subject to:

(a) The Governing Documents and any other applicable covenants;

(b) Any restrictions or limitations contained in any deed conveying the property to the Association;

(c) The Board's right to:

(i) adopt rules regulating Common Area use, including, without limitation, rules limiting the number of guests who may use the Common Area, and charge use fees for such use;

(ii) suspend the right of an Owner and its guests and invitees to use any Common Maintenance Area amenity (A) for any period during which any assessment or other charge against the Owner's Lot remains delinquent, and (B) for a period not to exceed 30 days for a single violation, or for a longer period in the case of any continuing violation, of the Governing Documents;

(iii) dedicate or transfer all or any part of the Common Area, subject to any approval requirements set forth in this Declaration;

(iv) rent any portion of the Common Area on an exclusive or non-exclusive short-term basis to any Person;

(v) permit use by the general public, which use may, but need not, be subject to admission charges, membership fees, or other user fees established in the Board's discretion (except to the extent inconsistent with any easement agreement relating thereto); and

(vi) mortgage, pledge, or hypothecate any or all of the Common Area as security for money borrowed or debts incurred, subject to the approval requirements set forth in Section 16.9.

(d) The rights of certain Owners to the exclusive use of those portions of the Common Area designated **"Limited Common Areas",** if any, as described in Article XIII.

Any Owner may extend his or her right to use the Common Area to the members of his or her family, tenants, and social invitees, as applicable, subject to reasonable Board regulation. An Owner who leases his or her Lot in accordance with this Declaration shall be deemed to have assigned all such rights to the tenants of such Lot for the lease term and shall not have any right to utilize the Common Area during such term, except as necessary to access the Lot.

Each Owner has a perpetual, non-exclusive ingress and egress easement to their Lot over the Common Area roadways.

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11.2. Easements of Encroachment.

Declarant grants easements of encroachment, and for maintenance and use of any permitted encroachment, between each Lot and any adjacent Common Area and between adjacent Lots. Such easement shall permit encroachment only by a structure, improvement or fixture which has been constructed by Declarant or approved in accordance with Article IV of this Declaration and which is constructed on another's property without the actual intention of encroaching on such property. An encroachment easement shall not exist if the encroachment results from willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

11.3. Easements for Utilities, Etc.

(a) Installation and Maintenance. Declarant reserves for itself, its duly authorized agents, successors and assigns, so long as Declarant or any Declarant Affiliate owns any property described in Exhibit "A" or "B," and grants to the Association and to the CDD, subject to Declarant's rights under Section 10.6, perpetual, non-exclusive easements (whether above ground or underground) throughout the Community (but not through a structure) to: (i) install utilities and infrastructure to serve the Community, including, without limitation, water, sewer, telephone, electric, gas, irrigation, cable and other systems for sending and receiving data and/or other electronic signals, drainage structures, facilities and systems, and security and similar systems and other Community Systems and Services; (ii) install and maintain walkways, pathways and trails, fences, signs, decorative improvements, curb cuts, driveways and paved areas, facilities associated with the entrance to provide roads, street lights, and signage on property which Declarant, the CDD, or the Association owns or within public rights-of-way or easements reserved for such purpose (or for the installation of landscaping or utilities) on a Plat; (iii) inspect, maintain, repair, and replace the utilities, infrastructure, and other improvements described above; (iv) access and read utility meters; and (v) for any other purpose in Declarant's sole discretion. The right, license, or easement granted to a utility supplier shall include the non-exclusive right to ingress and egress over any streets for access and maintenance of its equipment and facilities.

Declarant reserves the right to deny access to any utility or service provider, to the extent permitted by law, or to condition such access on negotiated terms.

(b) Specific Easements. Declarant also reserves for itself the non-exclusive right and power to record such specific easements anywhere in the Community (except through a structure) as may be necessary or appropriate, in Declarant's sole discretion, to assist in the development and operation of the Community.

(c) Interference. All work associated with the exercise of the easements described in subsections (a) and (b) of this Section shall be performed in such a manner as to minimize, to the extent reasonably practicable, interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably practicable, to the condition existing prior to the work. The exercise of these easements shall not extend to permitting entry into the structures on any Lot, nor shall it unreasonably interfere with the use of any Lot and, except in

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an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

11.4. Easements to Serve Additional Property.

Declarant reserves for itself and its duly authorized agents, successors, assigns, and Mortgagees, an easement over the Common Area and Lots for enjoyment, use, access, and development of the property described in Exhibit "B," whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area and Lots for construction of roads and for connecting and installing utilities.

If the above easement is exercised for permanent access to any property which is not submitted to this Declaration, Declarant, or its successors or assigns, shall enter into an agreement with the Association to share the cost of maintenance that the Association provides for the benefit of the easement holder, except to the extent such easement was created prior to the recordation of this Declaration.

11.5. Easements for Maintenance, Emergency, and Enforcement.

Declarant grants to the Association and to the CDD easements over the Community as necessary for the Association to fulfill its maintenance responsibilities under this Declaration and any Supplemental Declaration. The Association shall also have an easement and the right, but not the obligation, to enter upon any Lot for emergency, security, and safety reasons, to perform maintenance and to inspect for the purpose of ensuring compliance with and enforcing the Governing Documents. Such easement and right may be exercised by the Association through its officers, directors, committee members, employees, contractors, or agents in their capacities as such and by all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

Declarant grants to the Association, subject to any required notice, an easement and right to enter a Lot to abate a Governing Document violation and/or to remove any structure, thing, or condition that violates the Governing Documents. Any costs incurred, including Legal Costs, shall be assessed against the Lot Owner as a Benefited Assessment.

11.6. Easements for Maintenance of Bodies of Water and Flooding.

Declarant reserves for itself, the Association, the CDD, the District, and their successors, assigns, and designees, the nonexclusive right and easement, but not the obligation, to enter upon bodies of water and wetlands located within the Common Maintenance Areas and the Community to (a) install, operate, maintain, repair, and replace pumps and other equipment to supply irrigation water to the Common Maintenance Areas; (b) construct, maintain, repair, and replace structures and equipment used for retaining, detaining, and otherwise controlling water; and (c) maintain such areas in a manner consistent with the Community-Wide Standard and applicable legal requirements. Declarant, the CDD, the Association, the District, and their successors, assigns, and designees shall have an access easement over and across any portion of the Community to the extent reasonably necessary to exercise their rights under this Section.

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Declarant further reserves for itself, the Association, the CDD, and their successors, assigns and designees, a perpetual, nonexclusive right and easement of access and encroachment over the Common Maintenance Area and Lots (but not inside a dwelling or other structure) adjacent to or within 50 feet of bodies of water and wetlands within the Community, in order to (a) temporarily flood and back water upon and maintain water over such portions of the Community; (b) alter in any manner and generally maintain the bodies of water and wetlands within the Common Maintenance Areas; and (c) maintain and landscape the slopes and banks pertaining to such areas. Anyone exercising these easements shall use reasonable care in, and repair any damage resulting from, their intentional exercise of the easements. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to natural occurrences or for other occurrences not reasonably foreseeable or under the control of Declarant or such other Person.

11.7. Easements for Cross-Drainage.

All portions of the Community shall be burdened with easements for drainage of stormwater runoff from other portions of the Community; however, no Person other than Declarant shall alter the drainage on any Lot to increase materially the drainage of stormwater onto adjacent portions of the Community without the consent of the Owner(s) of the affected property, the Board, the CDD, the District, if applicable, and Declarant during the Development and Sale Period.

11.8. Rights to Stormwater Runoff, Effluent, and Water Reclamation.

Declarant reserves for itself and its designees all rights to ground water, surface water, stormwater runoff, and effluent located or produced within the Community, and each Owner agrees, by acceptance of a deed to a Lot, that Declarant shall retain all such rights. Such rights shall include, without limitation, the reservation of an easement over the Community for access, and for installation and maintenance of facilities and equipment to capture and transport such water, runoff, and effluent not maintained by the CDD. This Section may not be amended without Declarant's consent, and the rights created in this Section shall survive termination of this Declaration.

11.9. Easement for Maintenance of Surface Water and Storm Water Management System.

The Declarant, the CDD, and the Association shall have a perpetual, non-exclusive easement over all portions of the Surface Water and Storm Water Management System for access to operate, maintain, repair, or replace the system to the extent not maintained by the CDD. By this easement, the Declarant, the CDD, and the Association shall have the right to enter upon any portion of any Lot which is a part of or adjacent to the Surface Water and Storm Water Management System, at a reasonable time and in a reasonable manner, to operate, maintain, repair, or replace the system as the County or any governmental agency or quasi-governmental body requires or permits. Additionally, the Declarant, the CDD, and the Association shall have a perpetual, non-exclusive easement for drainage over the entire Surface Water and Storm Water Management System, and the owner of the pumps, pipes, and other apparatus comprising the

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system shall have an easement of access and maintenance as necessary for the operation, maintenance, repair, and replacement of such equipment. No Person other than Declarant shall alter the drainage flow of or over the Surface Water and Storm Water Management System, including, without limitation, buffer areas or swales, without the Association's and District's prior written approval, and, during the Development and Sale Period, Declarant's and the CDD's prior written consent.

11.10. Sign Easement.

Declarant reserves for itself and the Association an easement (herein referred to as the **"Entry, Sign and Landscape Easement"**) over, upon, and across all areas designated as **"Landscape Tract", "Signage Tract" "Landscape Area", "Entryway Feature Easement Area or Tract"** or **"Open Space"** or identified by similar designation, on any Plat, for erection, installation, operation, maintenance, repair, and replacement of Community signs, walls, monuments, fencing, decorative improvements, entry features, together with landscaping, lighting, utility, and irrigation facilities. No Owner shall obstruct access to the Entry, Sign and Landscape Easement, or install or remove any plant or other improvement or installation placed in the Entry, Sign and Landscape Easement by the beneficiaries thereof, or obstruct the view of the Entry, Sign and Landscape Easement from the adjacent street right-of-way. All signs, walls, monuments, entry features, landscaping, utility, irrigation and other permanent improvements installed in the Entry, Sign and Landscape Easement by Declarant shall become the Common Area of the Association upon conveyance from Declarant, and the Association shall maintain such Entry, Sign and Landscape Easement and the improvements therein as part of the Common Area. In addition, Declarant and any designee of Declarant shall have the right, without the prior approval of the Association or any Owner, within the Entry, Sign and Landscape Easement, erect, change, move, remove, repaint, maintain, and otherwise exercise complete and unfettered control over marketing signs at all times prior to the sale of the last Lot owned by Declarant or any designee of Declarant in the Community, and all such marketing signs shall be and remain the exclusive property of Declarant (or such designee of Declarant) and shall not be deemed part of the Common Area owned by the Association.

11.11. Easement for Irrigation Equipment.

If there is a master irrigation system for the Community, the Declarant and the Association shall have a perpetual, non-exclusive easement over, under and through all exterior portions of each Lot, except any area upon which buildings have been erected by Declarant or otherwise in accordance with Article IV, for the purpose of installing, maintaining, repairing, replacing and operating all irrigation equipment, systems and lines serving all or any portion of the Lots and/or Common Area. The foregoing easement shall not impose any obligation on the Association and/or Declarant to install any such improvements.

11.12. Private Roadways.

(a) The private roadways, if any, within the Community (**"Roadways"**), as depicted on any Plat, shall be owned by the Association as part of the Common Area and shall not be dedicated to the County or to public use by recordation of such Plat. Use of such Roadways shall be subject to and in accordance with any rights and easements shown on the Plats and such

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reasonable Use Restrictions and Rules as the Association may adopt from time to time consistent with this Declaration, the Plat, and any law, ordinance, or regulation governing the Community.

(b) Declarant hereby reserves unto itself, its agents, employees, successors, and assigns an easement over the Roadways for the purpose of constructing, maintaining, repairing, or rebuilding any subdivision improvements installed or to be installed in the Community and for performing any other work within the Community (including Lots) which Declarant deems reasonably necessary, in its discretion, or which Declarant is required to perform pursuant to a contract with any Owner or pursuant to the requirements of any government agency having jurisdiction over the Community. With regard to construction on any of the Lots by the Owners thereof, the contractors, subcontractors, laborers, materialmen, and other Persons providing construction services and materials to any such Lots shall have access to such Lots over the Roadways subject to such rules as the Association may adopt; however, during the Class "B" Control Period, Declarant shall have the right to prohibit the use of the Roadways by such Persons and to designate alternate access easements for such Persons.

(c) The Declarant hereby creates a perpetual, nonexclusive easement for access, ingress, and egress over the Roadways for Owners, law enforcement, fire fighting, paramedic, rescue, and other emergency vehicles, equipment, and personnel; for school buses; for U.S. Postal Service delivery vehicles and personnel; and for vehicles, equipment, and personnel providing garbage collection service to the Community provided that such easement shall not authorize any such Persons to enter the Community except while acting in their official capacities.

The existence of this easement shall not preclude the Association from maintaining gates or other devices or systems designed to limit general vehicular access to the Community, provided that the Association at all times maintains systems and/or procedures to permit the uncontested entry of Persons authorized to exercise the easements granted in this subsection without unreasonable interference or delay.

11.13. Easements to Public Rights-of-Way.

Notwithstanding anything to the contrary set forth in this Declaration, to the extent necessary, each Owner shall have a nonexclusive easement for vehicular and pedestrian access to and from his Unit over the Roadways to a public right-of-way. The easement herein granted shall be subject to the reasonable regulation of traffic by the Association, including but not limited to: speed limits; one-way streets; stop signs; yield signs; and other common traffic control signs and devices. The Association shall have the right to restrict access to the Roadways to Owners, resident members of the Owner's household, invited guests, commercial delivery services, governmental officials, including but not limited to, postal, policy, fire and safety officials, vendors, contractors and tradesmen engaged by an Owner, or the Declarant. The right of the Owner to use the Roadways for access to the Owner's Unit may not be suspended or withheld for any reason, including nonpayment of assessments or failure to obey traffic regulations, however, the Association shall have the right to exercise all other remedies available at law or in equity to recover from any such Owner all unpaid assessments, and to enforce all

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traffic regulations, and, in the event the Association incurs any expense in so doing, in addition to any other relief obtained by the Association, either voluntarily, by agreement, through arbitration or court action, the Owner shall reimburse the Association for all its costs and expenses, including, but not limited to, all reasonable attorney's fees, expert witness fees, investigation costs and other expenses incurred by the Association at the pre-trial, trial or appellate levels.

The Declarant reserves for itself, its successors or assigns, a blanket easement throughout the entire Community, to allow it to take whatever action it determines is necessary or beneficial to the development or operation of the Community. This blanket easement is to allow the Declarant to construct all of its improvements in the Community, whether on Common Area or on Lots, in the manner that it deems necessary. This means that the Declarant has access and use of any Lot or Common Area as is necessary to construct any improvement within the Community. It also is reserved for the purpose of allowing the Declarant, if it deems necessary, to repair, relocate, construct, or maintain any of the improvements installed in the Community.

11.14 General Development Easements. The Declarant reserves for itself, its successors or assigns, a blanket easement throughout the entire Community, to allow it to take whatever action it determines is necessary or beneficial to the development or operation of the Community. This blanket easement is to allow the Declarant to construct all of its improvements in the Community, whether on Common Area or on Lots, in the manner that it deems necessary. This means that the Declarant has access and use of any Lot or Common Area as is necessary to construct any improvement within the Community. It also is reserved for the purpose of allowing the Declarant, if it deems necessary, to repair, relocated, construct, or maintain any of the improvements installed in the Community.

Article XII Conservation Easements, Natural Conditions and Preserves

12.1. Conservation Easements.

(a) Establishment of Conservation Easements. The provisions of Section 704.06, Florida Statutes establish the right of the District and/or the County (the "Easement Grantee") to accept easements for the preservation of the natural habitat (such easements shall be referred to herein as the "Conservation Easements"). There are no Conservation Easements established by this Declaration; however, Declarant reserves unto itself and to the Association the right to grant such easements over and upon portions of the Common Area or Lots unto the Easement Grantee pursuant to the provisions of Section 704.06, Florida Statutes. Any Conservation Easements so granted shall be subject to the requirements of Section 704.06, Florida Statutes, and the following provisions. For the purposes of this Declaration, any portion of the Common Area encumbered by a Conservation Easement shall be referred to as the **"Conservation Easement Property", "Wetland Conservation Area", or "Upland Conservation Area."**

(b) Purpose. The purpose of a Conservation Easement is to assure that the Conservation Easement Property will be retained forever in its existing natural condition and to prevent any use of the Conservation Easement Property that will impair or interfere with the environmental value of the Conservation Easement Property.

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(c) Prohibited Acts and Uses. Any activity on or use of the Conservation Easement Property inconsistent with the purpose of a Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:

(i) constructing or placing buildings, roads, signs, billboards, or other advertising, utilities or other structures on or above the ground;

(ii) dumping or placing soil or other substances or material as landfill or dumping or placing of trash, waste or unsightly or offensive materials;

(iii) removing, mowing, trimming or destroying trees, shrubs, or other vegetation;

(iv) excavating, dredging, or removing loam, peat, gravel, soil, rock, or other material substances in such a manner as to affect the surface;

(v) using the surface area of the Conservation Easement Property, except for purposes that permit the land or water area to remain predominantly in its natural condition;

(vi) activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation;

(vii) acting upon or using the Conservation Easement Property in a manner detrimental to such retention of land or water areas;

(viii) acting upon or using the Conservation Easement Property in a manner detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance;

(ix) constructing or installing utilities on, below, or above the ground without appropriate local, state, and federal permits or other authorization; and

(x) applying of herbicides, pesticides, or fertilizers.

(d) Reserved Rights. The owner of record title to the Conservation Easement Property reserves unto itself, and its successors and assigns, all rights accruing from its ownership of the Conservation Easement Property, including, without limitation, the right to engage in or permit or invite others to engage in all uses of the Conservation Easement Property that are not expressly prohibited herein and are not inconsistent with the purpose of the Conservation Easement.

(e) Rights of Easement Grantee. To accomplish the purposes stated herein, the owner of record title to the Conservation Easement Property shall grant the following rights to the Easement Grantee and Declarant:

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(i) to enter upon and inspect the Conservation Easement Property in a reasonable manner and at reasonable times to determine if the Association, the Owners and Declarant or its successors and assigns are complying with the covenants and prohibitions contained in the Conservation Easement; and

(ii) to proceed at law or in equity to enforce the provisions of the Conservation Easement and the covenants set forth therein, to prevent the occurrence of any of the prohibited activities set forth herein, and require the restoration of areas or features of the Conservation Easement Property that may be damaged by any activity inconsistent with the Conservation Easement.

(f) Easement Grantee's Discretion. The Easement Grantee may enforce the terms of the Conservation Easement at its discretion, but if the Association, Declarant, or any Owner, breaches any term of the Conservation Easement and the Easement Grantee does not exercise its rights under the Conservation Easement, the Easement Grantee's forbearance shall not be construed to be a waiver by the Easement Grantee of such term, or of any subsequent breach of the same, or any other term of the Conservation Easement, or of any of the Easement Grantee's rights under the Conservation Easement. No delay or omission by the Easement Grantee in the exercise of any right or remedy upon any breach by the Association, Declarant or any Owner shall impair such right or remedy or be construed as a waiver. The Easement Grantee shall not be obligated to Declarant, or to any other person or entity, to enforce the provisions of the Conservation Easement.

(g) Easement Grantee's Liability. The owner of the fee interest in the Conservation Easement Property shall retain all liability for any injury or damage to the person or property of third parties that may occur on the Conservation Easement Property. Neither Declarant, nor any Owner, nor any person or entity claiming by or through Declarant or any Owner, shall hold the Easement Grantee liable for any damage or injury to person or personal property that may occur on the Conservation Easement Property.

(h) Acts Beyond Declarant's Control. Nothing contained in the Conservation Easement shall be construed to entitle the Easement Grantee to bring any action against Declarant or the Association for any injury to or change in the Conservation Easement Property resulting from natural causes beyond Declarant's or the Association's control, including, without limitation, fire, flood, storm and earth movement, or from any necessary action taken by Declarant under emergency conditions to prevent, abate, or mitigate significant injury to the Conservation Easement Property or to persons resulting from such causes.

(i) Recordation. Declarant shall record any Conservation Easement in a timely fashion and Declarant and the Owners of any Lots encumbered by the Conservation Easement shall re-record it by separate instrument at any time the Easement Grantee may require to preserve its rights. The Owners of any Lots encumbered by the Conservation Easement shall pay all recording costs and taxes necessary to record the Conservation Easement. Declarant will hold

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the Easement Grantee harmless from any recording costs or taxes necessary to record the Conservation Easement.

(j) Successors. The covenants, terms, conditions, and restrictions of the Conservation Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Conservation Easement Property.

(k) Restrictive Covenants Affecting Conservation Easements. No Owner or other person shall cut, remove, destroy, or otherwise disturb any plant, shrub, tree, or other vegetation within any Conservation Easement Property, nor shall any person, including, but not limited to any Owner, Declarant, and the Association, deposit dirt, fill, grass clippings, trash, rubbish, tree trimmings, building materials, or other waste within such easements without the prior written consent (as evidenced by any required permit or other official certification) of the Association, Declarant, the County, and the District.

12.2. Natural Conditions.

(a) The Community may contain a number of manmade, natural, and environmentally sensitive areas that may serve as habitats for a variety of native plants and wildlife, including, without limitation, insects, venomous and non-venomous snakes and other reptiles, alligators, and other animals, some of which may pose hazards to persons or pets coming in contact with them. Each Owner and occupant of any Lot, and every Person entering the Community (i) acknowledges that such plants and wildlife are indigenous to the area and are not restrained or restricted in their movements within or through the Community; and (ii) assumes all risk of personal injury arising from the presence of such plants and wildlife within the Community. Neither the Association, Declarant, any predecessor Declarant, any builder, nor the members, partners, affiliates, officers, directors, shareholders, attorneys, agents, or employees of any of the foregoing, shall have any duty to take action to control, remove, or eradicate any plant or wildlife in the Community, nor shall they have any liability for any injury resulting from the presence, movement, or propagation of any plant or wildlife within or through the Community.

(b) The natural areas described in subsection (a) above may also contain creeks, ponds, or intermittent pools of water, muddy areas, and underbrush, among other things, all of which are important to the ecological balance and maintenance of the area as a wildlife habitat. No Owner or occupant of a Lot shall enter upon, or permit their guests or any other person acting on their behalf to enter upon, or disturb such areas in any way without the Association's or Declarant's prior written approval.

12.3. Preserves.

As may be depicted on any Plat, certain tracts may be identified as **"Preserve"** or "Private Preserve." Unless otherwise approved in writing by Declarant, the District, the County and any other governmental authorities having jurisdiction, the Preserve areas shall be maintained in their natural state in perpetuity. No Owner, member of an Owner's household, or any other Person acting, or purporting to act, on behalf of any Owner, or for whom any Owner shall be responsible pursuant to this Declaration, shall disturb the natural environment of the

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Preserve areas in any way without first obtaining the written consent of the Board properly approved by the adoption of a resolution describing in detail the exact activities to be conducted within the Preserve areas, the times and dates when such activities are authorized to occur, and the identities of the Persons who are authorized to so act, together with the written consent of Declarant and any governmental authority having jurisdiction over the proposed activity.

This restrictive covenant is intended in the broadest sense, and includes, but is not limited to, trimming, cutting, or mowing grass, shrubs, trees or other plants; placing grass clippings, landscape debris, household trash or other materials; storing materials, equipment, vehicles, boats, motor homes, trailers, or other items; erecting children's playhouses, tree houses, swings, or other permanent or temporary improvements; planting trees, shrubs, grass, or ground cover; releasing birds, snakes, reptiles, insects, or other animals; grading or excavating; cultivating or gardening; or dumping dirt, sand, rocks, gravel, or other inorganic or organic material on any part of a Preserve area. No hunting or animal trapping, carrying or discharging of firearms, overnight camping or campfires, operation of motorcycles or so-called **"all-terrain vehicles", "dirt bikes",** or other motorized vehicles, implements, equipment, or conveyances are permitted within the Preserve areas at any time.

Any Owner who violates the foregoing restrictive covenants shall be responsible for the cost of restoring the affected Preserve area to the satisfaction of the Association, Declarant, and any governmental authority having jurisdiction thereof, and the Association shall have the right to prohibit the offending party from further use or enjoyment of the Preserve areas after prior notice and hearing before the Board.

BECAUSE THE PRESERVE AREAS ARE TO BE RETAINED IN THEIR NATURAL STATE, SUCH AREAS SHOULD BE CONSIDERED HAZARDOUS FOR RECREATIONAL ACTIVITIES.

NEITHER THE ASSOCIATION, NOR DECLARANT, NOR ANY OF THEIR AFFILIATES, HAS ANY OBLIGATION TO PROVIDE SECURITY OR SUPERVISION FOR ANY PERSON USING A PRESERVE AREA, AND ALL PERSONS USING A PRESERVE AREA DO SO AT THEIR OWN RISK.

INSECTS, SNAKES, AND ANIMALS THAT MAY BE DANGEROUS TO HUMANS MAY INHABIT THE PRESERVE AREAS.

OWNERS SHOULD NOT ALLOW CHILDREN OR PETS TO ENTER THE PRESERVE AREA WITHOUT ADULT SUPERVISION.

NEITHER THE ASSOCIATION NOR DECLARANT NOR ANY OF THEIR AFFILIATES SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY CONDITION OF A PRESERVE AREA OR ANY INJURY OR DEATH OCCURRING THEREON.

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THE ASSOCIATION SHALL HAVE THE RIGHT TO IMPOSE ADDITIONAL RULES AND REGULATIONS GOVERNING THE USE OF THE PRESERVE AREAS OR FOR ANY INJURY OR DEATH OCCURRING THEREON.

IF THE PRESERVE AREAS, OR THE TREES OR VEGETATION THEREON, ARE DAMAGED OR DESTROYED BY FIRE, WINDSTORM, FLOOD, DISEASE, OR OTHER NATURAL OR MANMADE EVENT, NEITHER THE ASSOCIATION, NOR DECLARANT, NOR ANY OF DECLARANT'S AFFILIATES, SHALL HAVE ANY OBLIGATION TO REPAIR OR RESTORE THE DAMAGE OR DESTRUCTION, OR TO REMOVE ANY DEAD OR DAMAGED TREES OR OTHER VEGETATION.

Article XIII Limited Common Areas

13.1. Purpose.

Certain portions of the Common Area may be designated as Limited Common Area and reserved for the exclusive use or primary benefit of Owners and occupants of one or more, but less than all, Lots. By way of illustration and not limitation, Limited Common Areas may include entry features, recreational facilities, landscaped medians and cul-de-sacs, private roads, lakes and other portions of the Common Area primarily serving a limited area. All costs associated with ownership, maintenance, repair, replacement, management, operation and insurance of a Limited Common Area shall be a Limited Common Expense allocated in accordance with Section 8.1(b) among the Owners in the Service Area to which the Limited Common Area is assigned.

13.2. Designation.

Initially, any Limited Common Area shall be designated as such in the deed conveying such area to the Association or on the subdivision plat relating to such Common Area; however, any such assignment shall not preclude Declarant from later assigning use of the same Limited Common Area to additional Lots during the Development and Sale Period.

Thereafter, a portion of the Common Area may be assigned as Limited Common Area upon approval of (a) the Board, (b) Members representing a majority of the total Class "A" votes in the Association, and (c) Members entitled to cast a majority of the Class "A" votes attributable to Lots to which the Limited Common Area is proposed to be assigned or reassigned. During the Development and Sale Period, any such assignment or reassignment shall also require Declarant's written consent.

13.3. Use by Others.

Upon approval of a majority of Owners of Lots to which any Limited Common Area is assigned, and subject to such restrictions as such Owners may impose, the Association may permit Owners of other Lots to use all or a portion of such Limited Common Area upon payment of reasonable user fees, which fees shall be used to offset the Limited Common Expenses attributable to such Limited Common Area.

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Article XIV Party Walls and Other Shared Structures

14.1. General Rules of Law to Apply.

Each wall, fence, driveway, or similar structure built as a part of the original construction on the Lots that serves any two adjoining Lots shall constitute a party structure. For the purposes of this Article, any fence that serves to enclose only one Lot or which is otherwise installed at the option of the Owner of a Lot shall not be deemed a party structure. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to party structures. Any dispute arising concerning a party structure shall be handled in accordance with the provisions of Article XV.

14.2. Maintenance; Damage and Destruction.

Unless otherwise specifically provided in additional covenants relating to such Lots, the Owners sharing the party structure shall share equally in the cost of necessary or appropriate party structure repairs and maintenance; however, painting and other aesthetic modifications visible only to one side of the structure shall be the responsibility of the Lot Owner with such visibility.

If a party structure is destroyed or damaged by fire or other casualty, then, to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner sharing the structure may restore it and be entitled to contribution for the restoration cost in equal proportions from other sharing owners. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions. The Owner of each Lot is granted an easement over the adjacent Lot as necessary to make repairs and restore the Lot.

The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

Article XV Dispute Resolution

15.1. Agreement to Encourage Resolution of Disputes Without Litigation.

(a) Certain disputes are governed exclusively by Section 720.311, Florida Statutes. Such disputes include, but are not limited to, disputes concerning recall, election, use or changes to a Lot or Common Area, amendments, board and committee meetings, membership meetings and access to official records. Any other disputes, and in the event of unsuccessful pre-suit mediation under 720.311, Florida Statutes, shall be subject to the provisions of this Article XV.

(b) Declarant, the Association and its officers, directors, and committee members, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties"), agree to attempt to resolve disputes involving the Community or the Governing Documents without the emotional and

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financial costs of litigation. Accordingly, each Bound Party agrees, to the fullest extent permitted by applicable law, not to, directly or indirectly, file a law suit for a Claim described in subsection (b) without first submitting the Claim to the alternative dispute resolution procedures described in Section 15.2.

(c) As used in this Article, the term "Claim" shall refer to any claim, grievance, or dispute arising out of or relating to:

(i) the interpretation, application, or enforcement of the Governing Documents;

(ii) the rights, obligations, and duties of any Bound Party under the Governing Documents;

(iii) the design or construction of improvements within the Community, other than matters of aesthetic judgment under Article IV, which shall not be subject to review; or

(iv) trespass, nuisance, property damage, or enforcement of laws, codes, or ordinances within the Community;

except that the following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 15.2:

(i) any Association action to collect assessments, fines (see By-Laws Section 3.23) or other amounts due from any Owner;

(ii) any Association action to obtain a temporary or permanent restraining order or injunction (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to enforce the provisions of the Governing Documents or maintain the status quo and preserve the Association's ability to enforce the provisions of the Governing Documents;

(iii) any action between Owners, which does not include Declarant and/or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents;

(iv) any action in which any indispensable party is not a Bound Party;

(v) any action as to which the applicable statute of limitations would expire within 180 days of giving the Notice required by Section 15.2(a), unless the party or parties against whom the Claim is made agree to toll, or extend, the Claim's statute of limitations to comply with this Article; and

(vi) fines pursuant to Section 3.23 of the By-Laws.

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15.2. Dispute Resolution Procedures.

(a) Notice. The Bound Party asserting a Claim (**"Claimant"**) against another Bound Party (**"Respondent"**) shall give written notice (**"Notice"**) by certified mail, return receipt requested; overnight delivery by a nationally recognized courier that provides tracking and receipt services; or personal delivery to each Respondent, and to the Board, stating plainly and concisely:

(i) the nature of the Claim, including the Persons involved and Respondent's role in the Claim;

(ii) the legal basis of the Claim (*i.e.*, the specific authority out of which the Claim arises);

(iii) the Claimant's proposed resolution or remedy; and

(iv) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation. The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) Mediation. If the Bound Parties have not resolved the Claim through negotiation within 30 days of the date of the Notice (or within such other agreed upon period), the Claimant shall have 30 additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in the County area. Each Bound Party shall present the mediator with a written summary of the Claim.

If the Claimant does not submit the Claim to mediation within such time, or does not appear for and participate in good faith in the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the Bound Parties do not settle the Claim within 30 days after submitting the matter to mediation, or within such time as determined reasonable by the mediator but which will not cause the statute of limitations to expire, the mediator shall issue a notice of termination of the mediation proceedings indicating that the Parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative or other proceedings on the Claim, as appropriate.

Each Bound Party shall bear its own costs of the mediation, including, without limitation, attorneys' fees, and each Party shall share equally all fees charged by the mediator.

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(d) Settlement. Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the Bound Parties. If any Bound Party thereafter fails to abide by the terms of such agreement, then any other Bound Party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the Bound Party taking action to enforce the agreement shall, upon prevailing, be entitled to recover from the non-complying Bound Party (or each one in equal proportions) all costs incurred in enforcing such agreement, including, without limitation, Legal Costs.

15.3. Initiation of Litigation by Association.

After the Class "B" Control Period, the Association shall not initiate any judicial or administrative proceeding which is reasonably expected to cost $25,000.00 or more in legal fees to prosecute to completion unless first approved by the Board upon the specific recommendation of the Dispute Resolution Committee (if created as provided in the By-Laws), or a majority of the Class "A" votes in the Association. The Dispute Resolution Committee's recommendation must be in writing and must be accompanied by a feasibility analysis including an explanation of the issues, a budget for legal and related expenses, the amount in controversy, the expectation of success, and a copy of bids from a minimum of three qualified law firms.

Article XVI Mortgagee Provisions

The following provisions are for the benefit of holders, insurers, and guarantors of first Mortgages on Lots. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

16.1. Notices of Action.

An institutional holder, insurer, or guarantor of a first Mortgage which provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Lot to which its Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Community or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of assessments or charges owed by a Lot subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Governing Documents relating to such Lot or the Owner or occupant which is not cured within 60 days;

(c) Any lapse, cancellation, or material modification of any Association insurance policy;

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(d) Any proposed action which would require the consent of a specified percentage of Eligible Holders; or

(e) If the U.S. Department of Housing and Urban Development is insuring or the U.S. Department of Veterans Affairs is guaranteeing the Mortgage on any Lot, material amendment to the Governing Documents or extraordinary action of the Association, as defined under VA Pamphlet 26-7, as it may be amended or superceded.

Otherwise, no consent from Eligible Holders shall be necessary to enable the Association to accomplish any of its operational duties and responsibilities or to exercise any of its rights.

16.2. Special FHLMC Provision.

To the extent required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least 67% of the first Mortgagees or Class "A" Members representing at least 67% of the total Association vote consent, the Association shall not:

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Area which the Association owns, directly or indirectly (the granting of easements for utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this subsection);

(b) Change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner of a Lot (any decision or action in accordance with the provisions of this Declaration or any Supplemental Declaration subsequently recorded on any portion of the Community resulting in the levy of Service Area Assessments shall not be subject to this provision);

(c) By act or omission change, waive, or abandon any scheme of regulations or enforcement pertaining to architectural design, exterior appearance or maintenance of Lots and the Common Area (the issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision);

(d) Fail to maintain insurance, as required by this Declaration; or

(e) Use hazard insurance proceeds for any Common Area losses for other than the repair, replacement, or reconstruction of such property.

First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

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16.3. Other Provisions for First Lien Holders.

To the extent not inconsistent with Florida law and in addition to the provisions in this Declaration:

(a) Any restoration or repair of the Community after a partial condemnation or damage due to an insurable hazard shall be performed substantially in accordance with this Declaration and the original plans and specifications unless the approval is obtained of the Eligible Holders of first Mortgages on Lots to which more than 50% of the votes of Lots subject to Mortgages held by such Eligible Holders are allocated.

(b) Any election to terminate the Association after substantial destruction or a substantial taking in condemnation shall require the approval of the Eligible Holders of first Mortgages on Lots to which more than 50% of the votes of Lots subject to Mortgages held by such Eligible Holders are allocated.

16.4. Amendments to Documents for Article XVI Mortgage Provisions.

The following provisions do not apply to (x) amendments to the Governing Documents or termination of the Association, if the same result is solely on account of destruction, damage, or condemnation pursuant to Section 16.3(a) and (b), or (y) to the annexation of land in accordance with Article IX, otherwise:

(a) The consent of at least 67% of the Class "A" votes, and the consent of Declarant, during the Class "B" Control Period, and the approval of the Eligible Holders of first Mortgages on Lots to which at least 67% of the votes of Lots subject to a Mortgage appertain, shall be required to terminate the Association.

(b) If and to the extent FHA, HUD or VA is insuring or guaranteeing any Mortgage on any Lot, the consent of at least 67% of the Class "A" votes, and the consent of Declarant, during the Class "B" Control Period, shall be required to amend any material provisions of the Declaration, By-Laws, or Articles of Incorporation, or to add any material provisions thereto which establish, provide for, govern, or regulate any of the following:

(i) voting;

(ii) assessments, assessment liens, or subordination of such liens;

(iii) reserves for maintenance, repair, and replacement of the Common Maintenance Area;

(iv) insurance or fidelity bonds;

(v) rights to use the Common Maintenance Area;

(vi) responsibility for maintenance and repair of the Community;

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(vii) expansion or contraction of Community or the addition, annexation, or withdrawal of property to or from the jurisdiction of the Association;

(viii) boundaries of a Lot;

(ix) leasing of Lots;

(x) imposition of any right of first refusal or similar restriction of the right of any Owner to sell, transfer, or otherwise convey his or her Lot;

(xi) establishment of self-management by the Association where professional management has been required by an Eligible Holder; or

(xii) any provisions included in the Governing Documents which are for the express benefit of holders, guarantors, or insurers of first Mortgages on Lots.

16.5. Construction of Article XVI.

Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under this Declaration, the By-Laws, or Florida law for any of the acts set out in this Article.

16.6. No Priority.

No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

16.7. Notice to Association.

Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering the Owner's Lot.

16.8. Failure of Mortgagee to Respond.

Any Mortgagee (and for purposes of this paragraph "Mortgagee" shall include FHA, VA, HUD, FNMA, FHLMC, or other similar governmental or quasi-governmental agency) who receives a written request from the Board to respond to or consent to any action, shall be conclusively deemed to have irrevocably approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified mail, return receipt requested; or overnight delivery by a nationally recognized courier that provides tracking and receipt services; or personal delivery.

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16.9. HUD/VA Approval.

As long as there is a Class "B" membership, the following actions shall require the prior approval of HUD or the VA, if either such agency has granted project approval for such Mortgages and the approval of Declarant and 67% of the Class "A" Members: merger, consolidation, or dissolution of the Association; annexation of additional property other than that described in Exhibit "B"; dedication, conveyance (other than to correct errors on property descriptions or other inconsequential or immaterial conveyances), or mortgaging of Common Area; or material amendment of this Declaration or the By-Laws. The granting of easements for utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a conveyance within the meaning of this Section.

Article XVII Disclosures and Waivers.

17.1. No Liability For Third Party Acts.

Owners and occupants of Lots, and their respective guests and invitees, are responsible for their own personal safety and for their property in the Community. The Association may, but is not obligated to, maintain or support certain activities within the Community which are intended to promote or enhance safety or security within the Community. However, the Association and Declarant shall not in any way be considered insurers or guarantors of safety or security within the Community, nor shall they be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

No representation or warranty is made that any systems or measures, including, without limitation, fire protection, burglar alarm, or other security monitoring systems, (or if there is any gate or other mechanism or system for limiting access to the Community), cannot be compromised or circumvented, nor that any such systems or measures undertaken will prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing its tenants and all occupants and invitees of its Lot that the Association, the Board and its committees, Declarant and any predecessor Declarant are not insurers or guarantors of security or safety and that each Person within the Community assumes all risks of personal injury and loss or damage to property, including Lots and the contents of Lots, resulting from acts of third parties. Any gate or other mechanism or system for limiting access to the Community may, at Declarant's discretion, be left open or unattended, from time to time or at any time to facilitate access by contractors, subcontractors, inspectors, brokers, salespersons and others to any sales office and/or Lots that are under construction or for sale.

17.2. View Impairment.

Neither Declarant nor the Association guarantee or represent that any view over and across the Lots or any open space or any other portion of the Community within the Community will be preserved without impairment. Neither Declarant nor the Association shall be obligated to relocate, prune, or thin trees or other landscaping. The Association (with respect to the Common Area) and Declarant have the right to relocate, prune, thin, or add trees and other

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landscaping from time to time subject to applicable law. Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

17.3. Notices and Disclaimers as to Community Systems and Services.

In recognition of the fact that interruptions in cable television and other Community Systems and Services will occur from time to time, neither Declarant nor any of Declarant's successors or assigns (and their Affiliates) shall in any manner be liable for, and no Community System and Service user shall be entitled to refund, rebate, discount, or offset in applicable fees, for any interruption in Community Systems and Services, regardless of whether or not such interruption is caused by reasons within the service provider's control. Declarant shall be entitled to retain any rebate, discount, or other compensation received from the provider of any Community Systems and Services in connection with the installation or operation of such system.

17.4. Construction Activities.

All Owners, occupants, and users of Lots are hereby placed on notice that Declarant, any Declarant Affiliate, and/or their agents, contractors, subcontractors, licensees, and other designees, successors, or assigns, shall continue, from time to time, to conduct construction activities within the Community. By the acceptance of a deed or other conveyance or mortgage, leasehold, license, or other interest, and/or by using any portion of a Lot or the Community generally, Owners, occupants and users of Lots acknowledge, stipulate, and agree (a) such activities shall not be deemed nuisances, or noxious or offensive activities, under any applicable covenants or at law generally; (b) not to enter upon, or allow their children or other Persons under their control or direction to enter upon (regardless of whether such entry is a trespass or otherwise), any property within or in proximity to the Lot or any other portion of the Community where such activities are being conducted (even if not being actively conducted at the time of entry, such as at night or otherwise during non-working hours); (c) that Declarant, any Declarant Affiliate, or predecessor Declarant, and all of their agents, contractors, subcontractors, licensees, and other designees, successors, and assigns, shall not be liable for any losses, damages (compensatory, consequential, punitive, or otherwise), injuries, or deaths arising from or relating to any breach of this covenant; (d) that any purchase or use of any portion of a Lot has been and will be made with full knowledge of the foregoing; and (e) this acknowledgment and agreement is a material inducement to Declarant or its Affiliates to sell, convey, lease, and/or allow the use of Lots within the Community.

17.5. Water Management.

Each Owner acknowledges and agrees that some or all of the water features, if any, or wetlands in or adjacent to the Community are designed as water management areas and are not designed solely as aesthetic features. Due to fluctuations in water elevations within the immediate area, water levels will rise and fall. Each Owner further acknowledges and agrees that Declarant does not have, or is not obligated to exert, control over such elevations. Therefore, each Owner agrees to, and does by purchase of a Lot, release and discharge Declarant and Declarant Affiliates and any predecessor Declarant from and against any and all losses, claims,

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demands, damages, and expenses of whatever nature or kind, including, without limitation, Legal Costs, related to or arising out of any claim relating to such fluctuations in water elevations. Owners shall not alter, modify, expand, or fill any water features or wetlands located within or in the vicinity of the Community without the prior written approval of Declarant and any local, state, or federal regulatory or permitting authorities as may have relevant jurisdiction over such matters.

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

EACH OWNER, BY THE ACCEPTANCE OF TITLE TO A LOT, ACKNOWLEDGES THAT THE WATERWAYS ARE DEEP AND DANGEROUS. NEITHER DECLARANT, THE ASSOCIATION NOR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OR SUBCONTRACTORS (COLLECTIVELY, THE "LISTED PARTIES") SHALL BE LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE SAFETY, WATER QUALITY OR WATER LEVEL OF/IN ANY WATERWAY WITHIN THE COMMUNITY, EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY, OR CONTRACTED FOR WITH, AN APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY OR AUTHORITY. FURTHER, NONE OF THE LISTED PARTIES SHALL BE LIABLE FOR ANY PROPERTY DAMAGE, PERSONAL INJURY OR DEATH OCCURRING IN, OR OTHERWISE RELATED TO, ANY WATER BODY, ALL PERSONS USING SAME DOING SO AT THEIR OWN RISK. ALL OWNERS AND USERS OF ANY PORTION OF THE COMMUNITY SHALL BE DEEMED, BY VIRTUE OF THEIR ACCEPTANCE OF THE DEED TO OR USE OF, SUCH PROPERTY, TO HAVE AGREED TO RELEASE THE LISTED PARTIES FROM ALL CLAIMS FOR ANY AND ALL CHANGES IN THE QUALITY AND LEVEL OF THE WATER IN SUCH BODIES. ALL PERSONS ARE HEREBY NOTIFIED THAT FROM TIME TO TIME WILDLIFE MAY HABITATE OR ENTER INTO WATER BODIES WITHIN OR NEARBY THE COMMUNITY AND MAY POSE A THREAT TO PERSONS, PETS AND PROPERTY, BUT THAT THE LISTED PARTIES ARE UNDER NO DUTY TO PROTECT AGAINST, AND DO NOT IN ANY MANNER WARRANT OR INSURE AGAINST, ANY DEATH, INJURY OR DAMAGE CAUSED BY SUCH WILDLIFE.

17.6. Liability for Association Operations.

The Association shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless Declarant and any predecessor Declarant (including, without limitation, their respective Affiliates, successors, and assigns) from and against any and all losses, claims, demands, damages, costs, and expenses of whatever kind or nature (including, without limitation, Legal

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Costs), which relate to or arise out of Association management and operations, including, without limitation, improvement, maintenance, and operation of amenities and other portions of the Common Maintenance Areas and the collection of assessments.

17.7 Capacity Assessment Units.

Hillsborough County charges each home owner, payable as part of their tax bill, a charge for capacity assessment units (CAU's), which are county charges for providing capacity for water, sewer, or other services or improvements provided by the county. These capacity charges are currently payable over a 20-year period by including them in the tax bill for the property. It is the homeowners' responsibility to make sure these charges are paid. These CAU's are not part of the assessments, charges, or use fees charged by the Association.

17.8 Nature Trails.

The CDD may, but shall not be required, to construct and maintain a nature trail throughout the Community. Owners agree and acknowledge that the CDD may place restrictions on the use of the nature trail, including the hours of use, the prohibition of vehicles, and limitation of certain types of recreational equipment. It is further agreed and acknowledged that the trail may be located at or near the rear of certain Lots and users of the trail may be seen or heard from within those Lots.

17.9 Live/Work Lots.

Pursuant to the land use approvals granted by the County for the Community, certain Lots located within a village ("Village") (as defined in the Hillsborough County Land Development Code) will be allowed to maintain a more intense level of business operation within those Lots than is otherwise allowable in this Declaration. Such Lots are limited only to such designated areas and the exemptions for those Lots are not available to any other Lots. The Live/Work Lots may have special restrictions or limitations and may be exempt from other restrictions in this Declaration. Such provisions, exemptions and Lots shall be more particularly identified in a Supplemental Declaration.

Article XVIII Changes in Ownership of Lots

Any Owner, other than Declarant or any Declarant Affiliate, desiring to sell or otherwise transfer title to his or her Lot shall give the Board at least 14 days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. Notwithstanding the transfer of title, the transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Lot Owner, including, without limitations, assessment obligations, until the date upon which the Board receives such notice, after which the original Owner shall be released from the obligation to pay assessments levied after the date such notice is received.

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Article XIX Changes in Common Area

19.1. Condemnation.

Whenever any part of the Common Area is taken or conveyed under threat of condemnation by any authority having the power of eminent domain, the Board shall determine, in the exercise of its business judgment, whether each Owner is entitled to notice. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent practicable, unless, within 60 days after such taking, Members entitled to cast at least 75% of the total Class "A" votes and Declarant, during the Class "B" Control Period, shall otherwise agree. Any such construction shall be in accordance with plans the Board approves. The provisions of Section 7.3 regarding funds for the repair of damage or destruction shall apply.

If the taking does not involve any Common Area improvements, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

19.2. Partition.

Except as permitted in this Declaration, the Common Area shall remain undivided, and no Person shall bring any action for partition of any portion of the Common Area without the written consent of all Owners and Mortgagees. This Section shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration.

19.3. Transfer or Dedication of Common Area.

The Association may convey, dedicate, or otherwise transfer portions of the Common Area to the County or to any other local, state, or federal governmental or quasi-governmental entity, with the consent of at least two-thirds of the Owners and such approval as may be required by Section 16.9; however, any dedication or transfer of Limited Common Areas to the County or to any other governmental entity shall require the consent of two-thirds (2/3) of the Owners entitled to use such Limited Common Area.

Article XX Amendment of Declaration

20.1. By Declarant.

In addition to specific amendment rights granted elsewhere in this Declaration, until the termination of the Class "B" Control Period, Declarant may unilaterally amend this Declaration for any purpose, subject to the approval requirements set forth in Article XVI, if applicable.

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Thereafter and until termination of the Class "B" Control Period, Declarant may unilaterally amend this Declaration if such amendment is necessary (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on the Lots; (c) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, HUD, or VA, to make, purchase, insure, or guarantee mortgage loans on the Lots; (d) to satisfy the requirements of any local, state, or federal governmental agency; or (e) for any other purpose which does not materially adversely affect title to any Lot, unless the Owner of such Lot consents to such amendment.

20.2. By the Members.

Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of 67% of the Members in attendance at a meeting at a validly convened annual or special meeting at which at least 50% of the Association's total Class "A" votes are present. In addition, during the Development and Sale Period, Declarant's written consent is required for any amendment. The approval requirements set forth in Article XVI also shall be met, if applicable..

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

20.3. Approval by the District.

Notwithstanding Sections 20.1 and 20.2, any amendment to the Declaration that alters any provision relating to the Surface Water and Storm Water Management System, beyond maintenance in its original condition, including the water management portions of the Common Areas, or amendment to this Section 20.3, must have the prior approval of the District or its designees.

20.4. Validity and Effective Date.

No amendment may remove, revoke, or modify any right or privilege of Declarant or the Class "B" Member without the written consent of Declarant or the Class "B" Member, respectively (or the assignee of such right or privilege). If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that the Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment, if required by applicable laws, permits and/or approvals.

Any amendment shall become effective upon the earliest of (a) actual notice; (b) recording; or (c) later effective date specified in the amendment. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

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20.5. Exhibits.

Exhibits "A", "B", "C", "D", and "E" attached to this Declaration are incorporated herein.

[Remainder of page left blank intentionally]

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IN WITNESS WHEREOF, Declarant has caused this instrument to be executed on the day and year written below.

Signed, sealed and delivered
in our presence as witnesses:

Penny E. Dandino

Print Name: PENNY E. DANDINO

Print Name: JONATHAN MILLER

TRIPLE CREEK, LLC, a Delaware limited liability company

By: **Centex Homes**, a Nevada general partnership, its Managing Member

By: **Centex Real Estate Corporation**, a Nevada corporation, its managing general partner

By: _____
DAVID T. IVIN,
Division President

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

On this the 28th day of JUNE, 2007, before me, the undersigned notary public, personally appeared DAVID T. IVIN, personally known to me to be the person who subscribed to the foregoing instrument, as Division President of Centex Real Estate Corporation, a Nevada corporation, the managing general partner of Centex Homes, a Nevada general partnership, the Managing Member of TRIPLE CREEK, LLC, a Delaware limited liability company, and acknowledged that he executed the same on behalf of the partnership, corporation and company and he was duly authorized to do so.

Penny E. Dandino

NOTARY PUBLIC, STATE OF FLORIDA

PENNY E. DANDINO
MY COMMISSION # DD 401338
EXPIRES: March 30, 2009
Bonded Thru Notary Public Underwriters

Print Name PENNY E. DANDINO
My Commission Expires: 3/30/09
Commission No: DD 401338

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EXHIBIT "A"

Land Initially Submitted

ALL THOSE TRACTS OR PARCELS OF LAND shown on that certain plat of Triple Creek Phase 1 Village A, recorded in Plat Book 114, Pages 135 through 142, Triple Creek Phase 1 Village B, recorded in Plat Book 114, Pages 143 through 156, Triple Creek Phase 1 Village C, recorded in Plat Book 114, Pages 157 through 161, and Triple Creek Phase 1 Village D, recorded in Plat Book 114, Pages 162 through 168 of the public records of Hillsborough County, Florida, as such property may be replatted from time to time or as such plat may be revised or amended (**"Plat"**).

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EXHIBIT "B"

Land Subject to Annexation

LEGAL DESCRIPTION

A parcel of land lying and being in Sections 1, 2, 10, 11 and 12, Township 31 South, Range 20 East, and in Section 6, Township 31 South, Range 21 East, All in Hillsborough County, Florida, being more particularly described as follows:

For a point of reference commence at the SW corner of Section 11, Township 31 South, Range 20 East, thence East (an assumed bearing) along the South boundary of said Section 11, a distance of 1081.12 feet to a point on the Easterly right of way line of Balm-Riverview Road; thence North 25°35'00"W. along aforesaid Easterly right of way line 150.00 feet to the Point of Beginning; continue thence N.25°35'00"W. along said right of way line, 402.29 feet; thence N.29°51'18"W. along said Easterly right of way line of Balm-Riverview Road, 1552.60 feet; thence N.24°09'28"W. along aforesaid Easterly right of way line 883.18 feet to the North line of the S 1/2 of Section 10, Township 31 South, Range 20 East; thence S.89°42'05"E. along said North line of the S 1/2 of Section 10, a distance of 229.30 feet to the NW corner of the SW 1/4 of Section 11, Township 31 South, Range 20 East; thence S.89°54'40"E. along the North line of the S 1/2 of said Section 11, a distance of 3955.14 feet to the NE corner of the NW 1/4 of the SE 1/4 of said Section 11, thence N.01°17'35"W. along the West line of the E 1/4 of said Section 11, a distance of 710.20 feet; thence S.89°52'01"E. along an Easterly projection of the Northerly right of way line of Big Bend Road, 20.00 feet to a point of curvature; thence along the arc of a curve concave to the Northwest, having a radius of 1350.00 feet. a chord of 487.88 feet which bears N.78°17'48"E., 490.58 feet; thence N.01°17'35"W. 804.66 feet; thence N.89°52'01"W. 500.00 feet to the West line of the E 1/4 of Section 11, Township 31 South, Range 20 East; thence N.01°17'35"W. along said West line of the E 1/4 of Section 11, a distance of 1032.82 feet to the NW corner of the NE 1/4 of the NE 1/4 of Section 11, Township 31 South, Range 20 East; thence N.00°08'46"W. along the West line of the E 1/4 of Section 2, Township 31 South, Range 20 East, 1650.00 feet; thence S.89°55'05"E. parallel to the South line of said Section 2, a distance of 130.45 feet; thence N.77°35'27"E. 2178.06 feet; thence S.01°20'58"E. 350.52 feet; thence N.76°33'57"E. 1019.38 feet; thence S.71°04'33"E. 621.60 feet; thence N.76°55'22"E. 468.39 feet; thence N.02°37'58"W. 238.46 feet; thence N.60°56'37"E. 541.84 feet; thence N.76°45'07"E. 325.40 feet; thence S.01°34'43"E. 822.56 feet to a point 1650.00 feet North of the South line of Section 1, Township 31 South, Range 20 East; thence N.89°46'26"E. parallel to said South line of Section 1, a distance of 1527.65 feet to the East line of said Section 1, Township 31 South, Range 20 East; thence N.89°59'20"E. parallel to and 1650.00 feet North of the South line of Section 6, Township 31 South, Range 21 East, 1279± feet to the center line of Bell Creek; thence meander Southerly, along the centerline of Bell Creek (as shown on survey by Brandon Surveying Inc. for P.M.C., Inc. - Welch-Gossett dated 7-5-1977) to the intersection of said centerline with a line 100.00 feet North of the South line of Section 6, Township 31 South, Range 21 East; thence N.89°59'20"E. parallel to and 100.00 feet North of the South line of the SW 1/4 of said Section 6, a distance of 1116.00 feet to the East line of the SW 1/4 of said Section 6; thence S.89°57'54"E. parallel to and 100.00 feet North of the South line of the SE 1/4 of said Section 6, a distance of 2117.95 feet to the Northwesterly right of way of Boyette-Balm Road; thence S.38°46'51"W. along said right of way line 128.23 feet of the South line of the SE 1/4 of Section 6, Township 31 South, Range 21 East; thence N.89°57'54"W. 2037.25 feet to the Southeast corner of the SW 1/4 of said Section 6; thence S.89°39'20"W. 2660.81 feet to the Southwest corner of said Section 6; thence S.89°46'26"W. along the South line of the SE 1/4 of the SE 1/4 of Section 1, Township 31 South, Range 20 East, 1325.08 feet to the Southwest corner thereof; thence S.01°00'48"E. along the East line of the NW 1/4 of the NE 1/4 of Section 12, Township 31 South, Range 20 East, 1330.32 feet to the Southeast corner thereof; thence S.89°52'02"W. along the South line of the NW 1/4 of the NE 1/4 of said Section 12, a distance of 1322.85 feet to the SW corner thereof; thence S.01°06'42"E. along the East line of the W 1/2 of said Section 12, a distance of 3984.78 feet to the SE corner thereof; thence N.89°50'33"W. along the South line of Section 12, Township 31 South, Range 20 East, 2632.09 feet to the Southwest corner thereof; thence N.89°51'24"W. along the South line of Section 11, Township 31 South, Range 20 East, 637.50 feet to a point 2001.35 feet Easterly of the Southeast corner of the SW 1/4 of said Section 11; thence

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N.00°08'36"E. 1065.26 feet; thence N.89°51'24"W. parallel to the South line of the SE 1/4 of said Section 11 a distance of 1260.00 feet; thence S.00°08'36"W. 930.00 feet; thence N.89°51'24"W. 744.67 feet to the East line of the SW 1/4 of said Section 11, thence West parallel to and 135.26 feet North of the South boundary of the SW 1/4 of said Section 11 a distance of 1620.63 feet to the Point of Beginning.

LESS and EXCEPT

A strip of land 100 feet wide, lying in Sections 1, 11 and 12, Township 31 South, Range 20 East and in Section 6, Township 31 South, Range 21 East, Hillsborough County, Florida, and lying between the East boundary of the West 3/4 of the North 1/2 of Section 11, Township 31 South, Range 20 East and West right of way line of Boyette-Balm Road and whose centerline is described as follows:

For a point of reference commence at the Southeast corner of the North 1/2 of Section 11, Township 31 South, Range 20 East, Hillsborough County, Florida; thence North 89°51' West along the South boundary of said North 1/2 of Section 11, a distance of 1322.70 feet to the Southeast corner of the West 3/4 of the North 1/2 of said Section 11; thence North 1°12'45" West along the East boundary of said West 3/4 of the North 1/2, a distance of 660.20 feet for a Point of Beginning; from said Point of Beginning, run thence South 89°51' East along a line 660.00 feet North and parallel to the South boundary of said North 1/2 of Section 11, a distance of 20.0 feet to the P.C. of a 1400 foot radius curve to the left, from said P.C. run thence Northeasterly along the arc of said 1400 foot radius curve, a distance of 1015.92 feet to the P.T. of said curve, said arc being subtended by a 993.78 foot chord having a bearing of North 69°21'41" East, from said P.T. run thence North 48°34'22" East, 2158.20 feet to the P.C. of a 1000.0 foot radius curve to the Right, (said described course lying in Sections 11 and 12, Township 31 South, Range 20 East); from said P.C. run thence Northeasterly along the arc of said 1000.00 foot radius curve a distance of 725.76 feet to the P.T. of said curve, said arc being subtended by a 709.93 foot chord having a bearing of North 69°21'51" East, (said described course lying in Sections 1 and 12, Township 31 South, Range 20 East; from said P.T. run thence South 89°50'40" East, along a line 50.0 feet North and parallel to the South boundary of said Section 1 a distance of 3349.66 feet to a point on the East boundary of said Section 1; thence run North 89°53'30" East, along a line 50.0 feet North and parallel to the South boundary of Section 6, Township 31 South, Range 21 East a distance of 1735.85 feet to a point of terminus, said point lying also on the West right of way line of Boyette-Balm Road.

The Northerly and Southerly boundary of the above described 100 foot strip extends East, from the East boundary of the West 3/4 of the North 1/2 of Section 11, Township 31 South, Range 20 East to the Westerly right of way line of Boyette-Balm Road.

LESS AND EXCEPT the property described on Exhibit "A";

TOGETHER WITH:

Any parcel of land located within a two-mile radius of the perimeter boundaries of the above-described property or the property described on Exhibit "A."

Note to clerk and title examiners:

This Declaration is not intended to create an encumbrance on title to the property described on this Exhibit "B." Such title may be encumbered only with the consent of the owner by filing a Supplemental Declaration in accordance with Article IX.

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EXHIBIT "C"

Initial Use Restrictions

The following restrictions are covenants running with the land shall apply to all of the Community until such time as they are amended, modified, repealed, or limited pursuant to procedures of the Declaration.

1. General. The properties submitted to this Declaration shall be used only for residential, recreational, and related purposes consistent with this Declaration and any Supplemental Declaration. Such purposes may include, without limitation, an information center and/or a sales office for Declarant and/or any real estate broker retained by Declarant to assist in the sale of property described in Exhibit "A" or "B," offices for any property manager retained by the Association, business offices for Declarant and the Association, and public facilities.

2. Restricted Activities. The following activities are prohibited within the Community unless expressly authorized by, and then subject to such conditions as may be imposed by, Declarant or the Board of Directors:

(a) Parking within the Community shall be governed by the applicable ordinances of Hillsborough County, Florida; and

(b) Raising, breeding, or keeping animals, livestock, or poultry of any kind, except that a reasonable number of dogs (except that no Pit bulls are allowed), cats, or other household pets of the nature commonly sold in pet stores located within regional malls in urban areas may be permitted in a Lot (not to exceed a total of three (3) such pets); however, those pets which roam free, or, in the sole discretion of the Board, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Lots shall be removed upon request of the Board. Dogs shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside the dwelling and the person walking the dog shall clean up after it. Pets shall be registered, licensed, and inoculated as required by law. Dog runs and any outdoor animal pens are prohibited; and

(c) Any activity which emits foul or obnoxious odors outside the Lot or creates an unreasonable level of noise or other conditions which tend, in the Board's judgment, to unreasonably disturb the peace or threaten the safety of the occupants of other Lots (this paragraph shall not preclude normal and customary use of power tools, lawn mowers, and other yard maintenance equipment during reasonable hours); and

(d) Any activity which violates local, state, or federal laws or regulations; however, the Board shall have no obligation to take enforcement action in the event of a violation; and

(e) Pursuit of hobbies or other activities which tend to cause an unclean, unhealthy, or untidy or noisy condition to exist outside of enclosed structures on the Lot; and

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(f) Any noxious or offensive activity which in the determination of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants of other Lots; and

(g) Outside burning of trash, leaves, debris, or other materials; and

(h) Use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be an unreasonable source of annoyance, as the Board may determine, to occupants of other Lots, except alarm devices used exclusively for security purposes; and

(i) Dumping grass clippings, leaves or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake, or elsewhere within the Community, except that fertilizers may be applied to landscaping on Lots provided care is taken to minimize runoff; and

(j) Accumulation of rubbish, trash, or garbage except between regular garbage pick ups, and then only in approved containers; and

(k) Obstruction or rechanneling drainage flows after location and installation of drainage swales, storm sewers, or storm drains, except that Declarant and the Association shall have such right; however, the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Lot without the Owner's consent; and

(l) Discharge of firearms; provided, no Association director, officer, employee or managing agent shall have any duty to become physically involved to stop such discharge; and

(m) On-site storage of gasoline, heating, or other fuels, except that a reasonable amount of fuel may be stored on each Lot for emergency purposes and for the operation of lawn mowers, pool, spa and hot tub heaters, gas grills and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment. This provision shall not apply to any underground fuel tank authorized pursuant to Article IV; and

(n) Any yard sale, garage sale, moving sale, rummage sale, or similar activity, except on such dates as the Board may designate for such activities to be conducted on a community-wide basis; and

(o) Capturing, trapping, or killing of wildlife within the Community (other than by or on behalf of the Association, Declarant or by a representative or designee of a Governmental Authority except in circumstances posing an imminent threat to the safety of persons in the Community; and

(p) Any activities by persons other than Declarant or its designees which materially disturb or destroy the vegetation, wildlife, wetlands, or air quality within the Community (except

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as may be approved pursuant to Article IV), or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution; and

(q) Conversion of any carport or garage to finished space for use as an apartment or other integral part of the living area on any Lot without prior approval pursuant to Article IV, or use of any garage for storage or other purposes which preclude its use for parking of that number of vehicles for which it was originally designed; and

(r) Operation of motorized vehicles other than mowing equipment on pathways or trails maintained by the Association; provided, however, that the Community nature trail shall be regulated by the CDD; and

(s) Swimming, boating, fishing, use of personal flotation devices, fishing or other active use of ponds, streams, or other bodies of water within the Community except that Declarant, its successors and assigns, shall be permitted to draw water from ponds, streams, and other bodies of water within the Community for purposes of irrigation and such other purposes as Declarant shall deem desirable. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of rivers, lakes, ponds, streams, or other bodies of water within or adjacent to the Community: and

(t) Entry onto any Lot or maintenance or other easement to access any lake, pond, preserve, wetland or similar area within the Community, except that the Owner and occupants of a Lot abutting any such area may access such area at points along the common boundary between such Owner's Lot and such area (but shall not enter onto other Lots or portions of any maintenance or other easement abutting any other Lot) and the authorized agents, employees, contractors, and designees of the Declarant or the Association may enter upon any Lot or maintenance or other easement for the purpose of gaining access to any such area; and

(u) picketing, protest marches, sit-in demonstrations, protest speeches, or other forms of public protest or conduct, including, without limitation, displaying signs or placards on the Lot or any vehicle, apparatus or otherwise within public view in the Community, which tends to vilify, ridicule, denigrate, or impugn the character of Declarant, the Association, their respective officers, directors or employees, or any Owner or resident of the Community. Each Owner, by acceptance of the deed to any Lot, shall be deemed to have accepted the foregoing prohibitions as reasonable limitations on his or her constitutional right of free speech;

(v) any activity which generates a level of noise audible to occupants of other Lots while inside their dwellings (including, without limitation, lawn maintenance, recreational activities, games, parties, music, and other activities conducted outdoors or on porches or decks) between the hours of 11:00 p.m. and 8:00 a.m., except that during the construction of dwellings on the Lots, Declarant and builders may commence construction activities within the Community at 7:00 a.m.; and

(w) door-to-door solicitation within the Community.

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(x) all windows and/or glass doors shall be covered with blinds, drapes, or verticals, and must have a white or neutral color back. The view of these permitted window and glass door treatments for the outside of the home must be white or neutral in color. No sheets or other materials may be hung over windows and glass doors; and

(y) Each property owner within the subdivision at the time of construction of a building, residence or structure shall comply with the construction plans for the surface water management system approved and on file with the District. No Owner of property within the subdivision may construct or maintain any building, residence or structure, or undertake or perform any activity in the wetlands, wetland mitigation area(s), buffer area(s), upland conservation area(s), or drainage easement(s) described in the approval permit and recorded plat of the subdivision, unless prior approval is received from the Southwest Water Management District Brooksville Regulation Department.

(z) The Lot Owners shall not remove native vegetation (including cattails) that become established within the wetland areas and/or retention ponds abutting their property. Removal includes, but is not limited to, dredging, the application of herbicide, cutting, and the introduction of grass carp. Lot Owners shall address any questions regarding authorized activities within the wetland areas and/or retention ponds to SWFWMD, Brooksville Service Office, Surface Water Regulation Manager.

(aa) Owner (with the exception of the Declarant, for so long as Declarant is an Owner) shall show no sign, advertisement or notice of any type on the Common Property, other portions of the Lot, the Association Property, if any, except as may be previously and specifically approved in writing by the Community Association and the Board. Declarant specifically reserves the right to place and maintain identifying or informational signs on any building located on the Common Property as well as any signs in connection with its sales or construction activities.

(bb) The design and construction of all screen enclosures and in-ground pools must obtain prior written approval per Article IV; and

(cc) No clothesline of any configuration shall be installed or erected upon any Lot so as to be in any way exposed to public view from any street or adjoining lot;

(dd) Any construction, erection, placement, or modification of any structure or thing, permanently or temporarily, on the outside portions of the Lot, whether such portion is improved or unimproved, except in strict compliance with the provisions of Article IV of the Declaration. This shall include, without limitation, all signs, fences, basketball hoops, swing sets and similar sports and play equipment; children's play houses; clothes hanging devices; garbage cans; woodpiles; swimming pools, spas, and hot tubs; air conditioners; tanks; solar energy devices; docks, piers and similar structures; and landscaping, hedges, walls, mailboxes, dog runs, animal pens, or fences of any kind; satellite dishes and antennas, except that:

(i) an antenna

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(A) designed to receive direct broadcast satellite services, including direct-to-home satellite services, that is one meter or less in diameter; or

(B) designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, that is one meter or less in diameter or diagonal measurement; or

(C) designed to receive television broadcast signals;

(**"Permitted Antenna"**) shall be permitted in rear yards of Lots or, if necessary to receive an acceptable quality signal, in side yards or front yards, in that order of preference; provided, unless prohibited by applicable law, any installation in the front yard of a Lot shall be subject to review and approval pursuant to Article IV of the Declaration, which review shall be completed within seven days of receipt of the application for review. The Reviewer or the Architectural Guidelines may impose requirements as to location and the manner of installation and screening in order to minimize obtrusiveness as viewed from streets and adjacent property, so long as such requirements are not inconsistent with applicable law. Declarant and/or the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna, cable, or other communication system for the benefit of all or a portion of the Community, should any master system or systems be utilized by the Association and require such exterior apparatus; and

(ii) a reasonable number of holiday and religious lights and decorations may be displayed on a Lot for up to 30 days prior to a publicly observed holiday or religious observance and up to 30 days thereafter without prior approval, subject to the right of the Association or Declarant to require removal of any such decorations which it deems to (A) be excessive in number, size, or brightness, relative to other Lots in the area; (B) draw excessive attention or traffic; (C) unreasonably interfere with the use and enjoyment of neighboring properties; or (D) cause a dangerous condition to exist. The Association shall have the right, upon 30 days prior written notice, to enter upon any Lot and summarily remove exterior lights or decorations displayed in violation of this provision. The Association, and the individuals removing the lights and decorations, shall not be liable to the Owner for trespass, conversion, or damages of any kind except intentional misdeeds and gross negligence; and

(iii) Any homeowner may display one portable, removable United States flag or official flag of the State of Florida in a respectful manner, and on Armed Forces Day, Memorial Day, Flag Day, Independence Day, and Veterans Day may display in a respectful manner portable, removable official flags, not larger than 4 ½ feet by 6 feet, which represents the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, regardless of any declaration rules or requirements dealing with flags or decorations. Flags may be mounted on the exterior façade of the dwelling at a location approved pursuant to Article IV of the Declaration;

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(iv) any solar devises shall be permitted; provided, unless prohibited by applicable law, shall be subject to review and approval pursuant to Article IV of the Declaration, which review shall be completed within 45 days of receipt of the application for review. The Reviewer or the Architectural Guidelines may impose requirements as to location and the manner of installation and screening in order to minimize obtrusiveness as viewed from streets and adjacent property, so long as such requirements are not inconsistent with applicable law.

3. Prohibited Conditions. The following shall be prohibited in the Community:

(a) Plants, animals, devices or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Community;

(b) Structures, equipment, or other items on the exterior portions of a Lot which have become rusty, dilapidated or otherwise fallen into disrepair; and

(c) Sprinkler or irrigation systems or wells of any type which draw upon water from lakes, creeks, streams, rivers, ponds, wetlands or canals within the Community, except that Declarant, its designees, and the Association shall have the right to draw water from such sources.

(d) Above ground pools.

(e) Window or wall mounted air conditioning units.

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EXHIBIT "D"

Articles of Incorporation of Triple Creek Homeowners Association, Inc.

850-205-0381 7/3/2007 11:37 PAGE 001/002 Florida Dept of State

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State of Florida

Department of State

I certify from the records of this office that TRIPLE CREEK HOMEOWNERS ASSOCIATION, INC. is a corporation organized under the laws of the State of Florida, filed on July 2, 2007.

The document number of this corporation is N07000006579.

I further certify that said corporation has paid all fees due this office through December 31, 2007, and its status is active.

I further certify that said corporation has not filed Articles of Dissolution.

I further certify that this is an electronically transmitted certificate authorized by section 15.16, Florida Statutes, and authenticated by the code, 107A00042840-070307-N07000006579-1/1, noted below.

Authentication Code: 107A00042840-070307-N07000006579-1/1

Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capital, this the
Third day of July, 2007

Kurt S. Browning
Secretary of State

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ARTICLES OF INCORPORATION OF TRIPLE CREEK HOMEOWNERS ASSOCIATION, INC.

The undersigned, by these Articles, associate themselves for the purpose of forming a not-for-profit corporation under and in accordance with the provisions of Chapter 617 and Chapter 720, Florida Statutes, and certify as follows:

Article 1. **Name**. The name of the corporation is **Triple Creek Homeowners Association, Inc.** For convenience, the corporation shall be referred to in this instrument as the **"Association."**

Article 2. **Address**. The address of the initial principal office of the Association and the initial mailing address of the Association is **3020 South Falkenberg Road, Riverview, FL 33569**.

Article 3. **Definitions**. All capitalized terms used in these Articles of Incorporation which are not defined herein shall have the meaning set forth in the Declaration of Covenants, Conditions and Restrictions for **Triple Creek**, recorded or to be recorded by Triple Creek, LLC, a Delaware limited liability company (**"Declarant"**), in the public records of Hillsborough County, Florida, as such Declaration may be amended and/or amended and restated from time to time (the **"Declaration"**).

Article 4. **Purposes**. The Association does not contemplate pecuniary gain or benefit, direct or indirect, to its members. By way of explanation and not of limitation, the purposes for which the Association is organized are:

(a) to be and constitute the Association to which reference is made in the Declaration, to perform all obligations and duties of the Association, and to exercise all rights and powers of the Association, as set forth in the Governing Documents and as provided by law; and

(b) to provide an entity for the furtherance of the interests of the owners of real property now and hereafter made subject to the Declaration (such real property is referred to in these Articles as the **"Community"**); and

(c) if required, to operate, maintain, and manage the Surface Water and Storm Water Management System in a manner consistent with the requirements of Southwest Florida Water Management District (the **"District"**) and applicable rules; to assist in the enforcement of the Declaration's provisions relating to the Surface Water and Storm Water Management System; and to levy and collect adequate assessments against Owners for the cost of maintenance and operation of the Surface Water and Storm Water Management System if not maintained by the Triple Creek CDD.

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Article 5. **Powers**. In furtherance of its purposes, the Association shall have the following powers, which, unless indicated otherwise by the Declaration or By-Laws of the Association, shall, if exercised at all, be exercised by the Board of Directors:

(a) all of the powers conferred upon not-for-profit corporations by common law and Florida Statutes in effect from time to time; and

(b) all of the powers necessary or desirable to perform the obligations and to exercise the rights and powers set out in these Articles, the By-Laws, and the Declaration, including, without limitation, the following:

(i) to fix, levy, collect, and enforce payment of all charges or assessments authorized by the Declaration by any lawful means; to pay all expenses in connection therewith and all administrative and other expenses incident to the conduct of the business of the Association including, without limitation, all licenses, taxes, or governmental charges levied or imposed against the property of the Association;

(ii) to manage, control, operate, alter, maintain, repair, improve, and replace the common areas and facilities, and any property acquired by the Association, or any property owned by another for which the Association, by rule, regulation, declaration, or agreement, has a right or duty to provide such services;

(iii) to make rules and regulations and to enforce covenants, conditions, or restrictions affecting any property within the Community to the extent the Association may be authorized to do so under the Declaration or By-Laws;

(iv) to engage in activities which will actively foster, promote, and advance the common interests of all owners of property within the Community subject to the Declaration;

(v) to buy, or otherwise acquire, sell, or otherwise dispose of, mortgage, or otherwise encumber, exchange, lease, own, hold, use, operate, and otherwise deal in and with, real, personal, and mixed property of all kinds and any right or interest therein for any purpose of the Association;

(vi) to borrow money for any purpose subject to such limitations as may be contained in the Declaration and/or By-Laws;

(vii) to enter into, make, perform, and enforce agreements of every kind and description, and to do all other acts necessary, appropriate, or advisable in carrying out any purpose of the Association, with or in association with any other corporation, or other entity or agency, public or private;

(viii) to act as agent, trustee, or other representative of other corporations, firms, or individuals, and as such to advance the business or ownership interests in such corporations, firms, or individuals; and otherwise elect

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(ix) to provide any and all supplemental municipal services to the Community as may be necessary or desirable.

The foregoing enumeration of powers shall not limit or restrict in any manner the exercise of other and further rights and powers which may now or hereafter be allowed or permitted by law; and the powers specified in each of the paragraphs of this Article 5 are independent powers, not to be restricted by reference to or inference from the terms of any other paragraph or provision of this Article 5.

Article 6. **Members**. The Association shall be a membership corporation without certificates or shares of stock. There initially shall be two classes of membership, as more fully set forth in the Declaration. The Owner of each Lot shall be a member of the Association and shall be entitled to vote as provided in the Declaration and the By-Laws. In addition, Declarant shall be a Member for such period as provided in the Declaration, regardless of whether Declarant owns any Lot. Membership in the Association is appurtenant to, and may not be severed from the Unit or Lot. The rights and obligations of a Member may not be assigned or delegated except as provided in the Declaration, these Articles of Incorporation, or the By-Laws of the Association, and shall automatically pass to the successor-in-interest of any Owner upon conveyance of such Owner's interest in the Lot or Unit.

Change of an Owner's membership in the Association shall be established by recording in the Public Records of the County, a deed or other instrument establishing record title to a Lot. Upon such recordation, the Owner designated by such instrument shall become a member of the Association and the membership of the prior Owner shall terminate.

Article 7. **Existence and Duration**. Existence of the Association shall commence with the filing of these Articles of Incorporation with the Secretary of State of the State of Florida. The Association shall exist in perpetuity.

Article 8. **Board of Directors**. The Association's business and affairs shall be conducted, managed, and controlled by a Board of Directors (**"Board"**). The Board may delegate its operating authority to such companies, individuals, or committees as it, in its discretion, may determine.

The Board shall initially consist of three members, as provided in the By-Laws. The names and addresses of the initial directors, who shall hold office until their successors are elected and have qualified, or until removed, are as follows:

Name	Address
Penny Dandino	3020 South Falkenberg Road, Riverview, FL 33569
Michelle Bushway	3020 South Falkenberg Road, Riverview, FL 33569
Wilhelm Nunn	3020 South Falkenberg Road, Riverview, FL 33569

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The method of election and removal of directors, filling of vacancies, and the term of office of directors shall be as set forth in the By-Laws.

Article 9. **By-Laws**. The initial By-Laws shall be adopted by the Board and thereafter may be altered, amended, rescinded or repealed in the manner provided in the By-Laws.

Article 10. **Liability of Directors**. To the fullest extent that Chapter 617 and Chapter 720 Florida Statutes, or other applicable law, exists on the date hereof or as they may hereafter be amended, permits the limitation or elimination of the liability of directors or officers, no director or officer of the Association shall be personally liable to the Association or its members for monetary damages for breach of duty of care or other duty as a director or officer. No amendment to or repeal of this Article shall apply to or have any effect on the liability or alleged liability of any director or officer of the Association for or with respect to any acts or omissions of such director or officer occurring prior to such amendment or repeal.

Article 11. **Indemnification**.

(a) Indemnity. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that he or she is or was a director, employee, officer, or agent of the Association. Such indemnification shall include indemnification against expenses (including, without limitation, reasonable attorneys' fees and appellate attorneys' fees), judgments, fines, and amounts paid in settlement, actually and reasonably incurred by the indemnified person in connection with such action, suit, or proceeding, if such person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceedings, such person had no reasonable cause to believe his or her conduct was unlawful. Notwithstanding the foregoing, no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for gross negligence or misfeasance or malfeasance in the performance of his or her duty to the Association, unless, and then only to the extent that, the court in which such action or suit was brought shall determine upon application that despite the adjudication of liability, in view of all of the circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expenses as such court shall deem proper. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendre* or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interest of the Association, and with a respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful. Notwithstanding the foregoing, the Association need not indemnify the managing agent of the Community unless such indemnification is required to do so by the agreement between the Association and such managing agent, approved by the Board or required by law.

(b) Approval. Any indemnification under paragraph (a) above (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a

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determination that indemnification is proper under the circumstances because the person requesting indemnification has met the applicable standard of conduct set forth in paragraph (a) above. Such determination shall be made (i) by majority vote of the members of the Board who were not parties to such action, suit, or proceeding, if sufficient to constitute a quorum, or (ii) if a quorum of the Board is not obtainable, or, even if obtainable, if a quorum of disinterested directors so directs, in a written opinion rendered by independent legal counsel engaged by the Association, or (iii) by a majority vote of the Class "A" Members and the consent of the Class "B" Member, during the Development and Sale Period.

(c) Advances. Expenses incurred in defending a civil or criminal action, suit, or proceeding may be paid by the Association in advance of the final disposition of such action, suit, or proceeding as authorized by the Board in any specific case upon receipt of a written agreement by or on behalf of the affected director, officer, employee, or agent to repay such amount if it is ultimately determined that he or she is not entitled to be indemnified by the Association as authorized in this Article.

(d) Miscellaneous. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled by law, under the By-laws, or pursuant to any agreement, vote of Members, or otherwise, and shall continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs and personal representatives of such person.

(e) Insurance. The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the Association, including, without limitation, as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Association would have the power to indemnify him or her against such liability under the provisions of this Article.

Article 12. Interested Directors.

(a) No contract or transaction between the Association and one or more of its directors or officers, or between the Association and any other corporation, partnership, or Association, or other organization in which one or more of its directors or officers are directors or officers or have a financial interest, shall be invalid, void, or voidable solely for such reason, or solely because the director or officer is present at or participates in the meeting of the Board at which such contract or transaction was authorized, or solely because his, her, or their votes are counted for such purpose. No director or officer of the Association shall incur liability by reason of the fact that he or she is or may be interested in any such contract or transaction.

(b) Interested directors may be counted in determining the presence of a quorum at a meeting of the Board at which a contract or transaction with an interested director is to be considered.

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(c) The Association may enter into contracts and transactions with Declarant and Declarant's Affiliates.

Article 13. **Amendments**. Until termination of the Class "B" membership, Declarant may unilaterally amend these Articles for any purpose, except that if the U.S. Department of Housing and Urban Development ("**HUD**") or the U.S. Department of Veterans Affairs ("**VA**") has granted project approval for FHA-insured or VA-guaranteed Mortgages on Lots, then any amendment shall require the approval of at least 67% of the Class "A" Members and the written consent of the Class "B" Member. If HUD or VA has not granted project approval then, after termination of the Class "B" Control Period, amendments to these Articles may be adopted upon a resolution of the Board and the affirmative vote or written consent of Members representing at least 67% of the Class "A" votes in the Association. No amendment may be in conflict with the Declaration.

Article 14. **Dissolution**. The Association may be dissolved only upon (a) a resolution duly adopted by the Board, and (b) the affirmative vote of members who are Owners of not less than two-thirds (2/3) of the Lots, and (c) so long as Declarant or any Declarant Affiliate owns any property subject to the Declaration or which may be unilaterally subjected to the Declaration, the consent of Declarant. Upon dissolution of the Association, if VA is guaranteeing or HUD is insuring the Mortgage on any Lot, then unless otherwise agreed to in writing by HUD or VA, any remaining real property of the Association shall be dedicated to an appropriate public agency or conveyed to a non-profit organization to be used for purposes similar to those for which this Association was created. In the event that acceptance of such dedication is refused, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust, or other organization to be devoted to such similar purposes. Such requirement shall not apply if VA is not guaranteeing and HUD is not insuring any Mortgage; provided, if either agency has granted project approval for the Community, then HUD and/or VA shall be notified of such dissolution.

In the event of the Association's termination, dissolution, or final liquidation, the responsibility for the operation and maintenance of the Surface Water and Storm Water Management System must be transferred to and accepted by an entity which complies with Section 40D, F.A.C. and is approved by the District prior to such termination, dissolution, or liquidation.

Article 15. **HUD/VA Approval**. As long as Declarant has the right to appoint and remove the directors and officers of the Association as provided in the By-Laws, the following actions shall require the prior approval of the VA or HUD, if either agency has granted project approval for the guaranteeing or insuring of Mortgages on Lots: annexation of additional property to the development, except for annexation by Declarant in accordance with Section 9.1 of the Declaration pursuant to a plan of annexation previously approved by VA and/or HUD, as applicable; mergers, consolidations, or dissolution of the Association; mortgaging of Common Area; dedication of Common Area to any public entity; and amendment of these Articles.

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Article 16. **Incorporator**. The name of the incorporator of the Association is **Triple Creek, LLC**, and such incorporator's address is **3020 South Falkenberg Road, Riverview, FL 33569**.

Article 17. **Registered Agent and Office**. The initial registered office of the Association is 3020 South Falkenberg Road, Riverview, FL 33569, Division President of Centex Homes, and the initial registered agent at such address is David T. Ivin.

IN WITNESS WHEREOF, the undersigned Incorporator has executed these Articles of Incorporation this 28th day of JUNE, 2007.

TRIPLE CREEK, LLC, a Delaware limited liability company

By: **Centex Homes**, a Nevada general partnership, its Managing Member

By: **Centex Real Estate Corporation**, a Nevada corporation, its managing general partner

By: _____
DAVID T. IVIN,
Division President

STATE OF FLORIDA :
:
COUNTY OF HILLSBOROUGH :

On this the 28th day of JUNE, 2007, before me, the undersigned notary public, personally appeared DAVID T. IVIN, personally known to me to be the person who subscribed to the foregoing instrument, as Division President of Centex Real Estate Corporation, a Nevada corporation, the managing general partner of Centex Homes, a Nevada general partnership, the Managing Member of TRIPLE CREEK, LLC, a Delaware limited liability company, and acknowledged that he executed the same on behalf of the partnership, corporation and company and he was duly authorized to do so.

PENNY E. DANDINO
MY COMMISSION # DD 401338
EXPIRES: March 30, 2009
Bonded Thru Notary Public Underwriters

_____
NOTARY PUBLIC, STATE OF FLORIDA
Print Name PENNY E. DANDINO
My Commission Expires: 3/30/09
Commission No: DD 401338

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

Pursuant to Chapter 48.091, Florida Statutes, the following is submitted in compliance with said Act:

That, **TRIPLE CREEK Homeowners Association, Inc.**, desiring to organize under the laws of the State of Florida, with its principal office at **3020 South Falkenberg Road, Riverview, FL 33569**, has named David T. Ivin, whose office is located at **3020 South Falkenberg Road, Riverview, FL 33569**, as its agent to accept service of process within the State.

ACKNOWLEDGEMENT

Having been named to accept service of process for the above stated corporation, at the place designated in this Certificate, David T. Ivin hereby accepts to act in this capacity, and agrees to comply with the provisions of said Act relative to keeping open said office.

DAVID T. IVIN

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BY-LAWS

OF

TRIPLE CREEK HOMEOWNERS ASSOCIATION, INC.

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BY-LAWS OF TRIPLE CREEK HOMEOWNERS ASSOCIATION, INC.

Article I
Name, Principal Office, and Definitions

1.1. Name.

The name of the corporation is Triple Creek Homeowners Association, Inc. (the "Association").

1.2. Principal Office.

The Association's principal office shall be located in the State of Florida in such location as the Board of Directors (the "**Board**") determines or as the Association's affairs require.

1.3. Definitions.

The words used in these By-Laws shall have their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in the Declaration of Covenants, Conditions, and Restrictions for Triple Creek, as it may be amended, or amended and restated, from time to time ("Declaration"), unless the context indicates otherwise. The interpretation of certain references, as set forth in Section 2.2 of the Declaration, shall also apply to the words used in these By-Laws.

Article II
Membership: Meetings, Quorum, Voting, Proxies

2.1. Membership.

The Association initially shall have two classes of membership, Class "A" and Class "B," as more fully set forth in the Declaration. Provisions of the Declaration pertaining to membership are incorporated herein by this reference.

2.2. Change of Membership.

Change of membership in the Association shall be established by recording a deed or other instrument conveying record fee title to any Lot. The grantee named in such instrument shall, by acceptance of such instrument, become a Member of the Association, and the membership of the prior Owner shall terminate. The new Owner shall deliver a copy of the conveyance instrument to the Association within 14 days after the conveyance and the new Owner shall not be entitled to voting privileges until the same has been received by the Association. The foregoing shall not, however, limit the Association's powers or privileges and the new Owner shall be liable for accrued and unpaid fees and assessments attributable to the Lot acquired.

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2.3. Place of Meetings.

The Association shall hold meetings at its principal office or at such other place as the Board may designate.

2.4. Annual Meetings.

The Association shall hold its first meeting, whether a regular or special meeting, within one year after the date of the Association's incorporation. The Board shall set the date and time of subsequent regular annual meetings to occur during the first quarter of each year thereafter. Annual meetings may be conducted electronically (*i.e., via* the Internet, intranet, or teleconference) if and to the extent permitted by law.

2.5. Special Meetings.

The President may call a special meeting of the Association. It also shall be the President's duty to call a special meeting if so directed by Board resolution or upon written petition of Members representing at least 30% of the total Class "A" votes in the Association, or such lower percentage as may be required bylaw. If the President does not call a special meeting pursuant to this Section within 30 days after the date such written petition is delivered to the Association's Secretary, any Member signing the petition may set the time and place of the special meeting and give the Association notice pursuant to Section 2.6.

2.6. Notice of Meetings.

The Association's Secretary shall cause written notice stating the place, day, and hour of any Association meeting to be given in any manner permitted by applicable law. If permitted by law, notice may be posted in a conspicuous, prominent place within the Community, delivered by hand delivery, or sent by facsimile, electronic mail, or other electronic communication device, or such other manner which is reasonably calculated, as the Board determines in its discretion, to provide personal notice to Members. Notice shall be given at least 15, but not more than 60, days before the date of the meeting, by or at the direction of the President, the Secretary, or the officers or Persons calling the meeting.

In case of a special meeting or when otherwise required by law 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 posted, notice shall be deemed given when posted. If mailed, the notice of a meeting shall be deemed given when deposited in the United States mail addressed to the Member at his or her address as it appears on the Association's records, with postage prepaid. If sent by facsimile, electronic mail, or other electronic communication device, notice shall be deemed delivered when transmitted to the Member at his or her address, e-mail address or telephone or fax number as it appears on the Association's records. Failure to receive actual notice of an Association meeting shall not affect the validity of any action taken at such meeting.

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2.7. Waiver of Notice.

Waiver of notice of an Association meeting shall be the equivalent of proper notice. Any Member may waive, in writing, notice of any Association meeting, either before or after such meeting. A Member's attendance at a meeting shall be deemed a waiver by such Member of notice of the meeting, unless the Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed a waiver of notice of all business transacted at the meeting, unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.8. Adjournment of Meetings.

If the Association cannot hold a meeting because a quorum is not present, or if the Members otherwise elect (with the approval of the Class "B" Member during the Development and Sales Period), a majority of the Members who are present may adjourn the meeting to a time at least 5 but not more than 30 days from the date called for the original meeting. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If those in attendance at the original meeting do not fix a time and place for reconvening the meeting, or if for any reason a new date is fixed for reconvening the meeting after adjournment, the Association shall give the Members notice of the time and place for reconvening the meeting in the manner prescribed for regular meetings.

2.9. Voting.

Members shall have such voting rights as are set forth in the Declaration, which provisions are incorporated herein by this reference.

2.10. Proxies.

On any matter as to which a Member is entitled personally to cast the vote for his or her Lot, such vote may be cast in person or by proxy, subject to applicable law.

Every proxy shall be in writing specifying the Lot(s) for which it is given, signed by the Member or his or her duly authorized attorney-in-fact, dated, and filed with the Association's Secretary or person presiding over the meeting prior to or during the roll call for the meeting for which it is to be effective. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to 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 later dated proxy shall prevail, or if dated as of the same date, the later, if the timing of the execution thereof can be determined, shall prevail, otherwise both shall be deemed invalid.

Every proxy shall be revocable and shall automatically cease upon: (a) conveyance of any Lot(s) for which it was given; (b) the receipt by the Secretary or the person presiding over a meeting of the Association, of a written notice of revocation of the proxy or of the death or judicially declared incompetence of a Member who is an individual; or (c) 90 days from the meeting date for which the proxy was originally given, unless the proxy specifies a shorter period.

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2.11. Majority.

As used in these By-Laws, the term "**majority**" shall mean those votes, Owners, or other group as the context may indicate, totaling more than 50% of the total eligible number.

2.12. Quorum.

Except as these By-Laws or the Declaration otherwise provide, Members or their proxies entitled to cast 10% of the total Class "A" votes in the Association and the Class "B" Member, if such Member exists, shall constitute a quorum at all Association meetings. Notwithstanding the above, if HUD or VA has issued project approval for the Community, then the quorum shall be 10% of each class. If no quorum is present at such a meeting, the meeting may be adjourned and reconvened on a later date. At such reconvened meeting, Members or their proxies entitled to cast 10% of the total Class "A" votes in the Association and the Class "B" Member, if such Member exists, shall constitute a quorum.

2.13. Conduct of Meetings.

The President shall preside over all Association meetings, at which he or she is present, and the Secretary shall keep (or cause to be kept) the minutes of the meetings and record in a minute book all resolutions adopted and all other transactions occurring at such meetings. Declarant and Owners may record (audio and visual images) Association meetings subject to such reasonable rules as the Board may impose.

2.14. Action Without a Meeting.

Without holding a meeting pursuant to Sections 2.4 or 2.5, Members may take any action that applicable law requires or permits the Members to take at a meeting (subject to any limitations in the Governing Documents), if approved by Members representing at least the minimum number of votes in the Association necessary to authorize such action at a meeting, if all Members entitled to vote were present and voted. Such approval shall be evidenced by one or more written consents specifically authorizing the proposed action, dated and signed by Members holding the requisite votes. The Association need not give prior notice before soliciting such consent; however, the Association must send written consent forms to all Members for action authorized pursuant to this section to be valid. Members shall sign, date, and deliver such consents to the Association within 60 days after the Association's receipt of the earliest dated consent. The Association's Secretary shall file (or cause to be filed) such consents with the Association's minutes and the consents shall have the same force and effect as a vote of the Members at a meeting. Within 10 days after receiving authorization for any action by written consent, the Secretary shall give (or cause to be given) written notice to all Members entitled to vote who did not give their written consent, fairly summarizing the material features of the authorized action.

2.15. Order of Business.

The order of business at all annual meetings of the Members shall be as follows: (a) roll call to determine whether a quorum is represented; (b) proof of notice of the meeting or waiver of

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notice; (c) reading of (or waiver of reading) minutes of the preceding annual meeting; (d) reports of officers, if any; (e) reports of committees, if any; (f) election of inspector(s) of election if an election is to be held; (g) election of Directors if applicable; (h) unfinished business, if any; and (i) new business.

Article III
Board of Directors: Selection, Meetings, Powers

A. Composition and Selection.

3.1. Governing Body; Composition.

The Board shall govern the Association's affairs. Each director shall have one vote. Directors must be Members or residents of the Community, except in the case of directors that the Class "B" Member appoints. A director must be at least 18 years old. No more than one representative of any Member which is a legal entity, nor more than one occupant of any Lot, shall serve on the Board at a time, except in the case of directors that the Class "B" Member appoints.

3.2. Number of Directors.

During the Class "B" Control Period, the initial Board shall consist of the three directors identified in the Articles of Incorporation. Following the Class "B" Control Period, the Board shall consist of the number of directors provided for in Section 3.5.

3.3. Directors During Class "B" Control Period.

The Class "B" Member shall have complete discretion in appointing, removing, and replacing directors during the Class "B" Control Period, except as otherwise provided in Section 3.5.

3.4. Nomination and Election Procedures.

(a) Nominations and Declarations of Candidacy. Prior to each election of directors, the Board shall prescribe the opening date and the closing date of a reasonable filing period in which every eligible person who has an interest in serving as a director may file as a candidate for any position to be filled by Class "A" votes. Nominations for election to the Board also may be made by a nominating committee. The nominating committee, if any, shall consist of a Chairman, who shall be a Member, and two or more Members or representatives of Members, all appointed by a majority of the Board. The nominating committee, if any, may make as many nominations for election to the Board as it shall in its discretion determine. The Board also shall permit nominations from the floor at any election meeting.

The Board shall give each candidate a reasonable, equal opportunity to communicate his or her qualifications to the Members and to solicit votes.

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(b) Election Procedures. A Member may cast the vote(s) assigned to the Lot(s) which he or she owns for each position to be filled at an election. Cumulative voting is not allowed. That number of candidates equal to the number of positions to be filled who receive the greatest number of votes shall be elected.

3.5. Election and Term of Office.

Except as these By-Laws may otherwise specifically provide, election of directors shall take place at the Association's annual meeting. Notwithstanding any other provision of these By-Laws:

(a) after termination of the Class "B" Control Period, an election shall be held at which the Class "A" Members shall elect the nine directors, with the three directors receiving the largest number of votes being elected for a term of three years, the three directors with the next highest number of votes being elected for a term of two years, and the remaining three directors being elected for a term of one year.

Until termination of the Class "B" membership, the Class "B" Member shall be entitled to appoint one director. Upon termination of the Class "B" membership, the director elected by the Class "B" Member shall resign and the remaining directors shall be entitled to appoint a director to serve until the next annual meeting, at which the Class "A" Members shall be entitled to elect a director to fill such position. Such director shall be elected for a term of two years.

Notwithstanding the stated length of any term, directors shall hold office until their respective successors have been elected.

Upon expiration of the term of each Class "A" Director elected pursuant to this subsection and thereafter, a successor shall be elected for a term of three years.

B. Meetings.

3.6. Organizational Meetings.

Each Board shall hold its first meeting promptly after the annual membership meeting, at such time and place as the Board shall fix.

3.7. Regular Meetings.

The Board may hold regular meetings at such time and place as the Board shall determine, but the Board shall hold at least one such meeting during each fiscal year during the Class "B" Control Period (which may be the organizational meeting in the first year) and at least one meeting per quarter thereafter.

3.8. Special Meetings.

The Board shall hold special Board meetings when called by written notice signed by the President, Vice President, or any two directors.

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3.9. Notice; Waiver of Notice.

(a) Notices of Board meetings shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be considered. The Board shall give notice to each director by: (i) personal delivery; (ii) first class mail, postage prepaid; (iii) telephone (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 (iv) facsimile, electronic mail, or other electronic communication device, with confirmation of transmission. All such notices shall be given at the director's telephone number, fax number, electronic mail address, or sent to the director's address, each as shown on the Association's records. Notices sent by first class mail shall be deposited into a United States mailbox at least 7 business days before the time set for the meeting, except in the event of an emergency. Notices given by personal delivery, telephone, or other device shall be delivered or transmitted at least 72 hours before the time set for the meeting.

(b) Except for emergency meetings, notice of a Board meeting shall be posted in a conspicuous place within the Community at least 48 hours in advance of the meeting or provided in any other manner reasonably anticipated to provide notice to all Members, including, without limitation, publication in an Association newsletter with Community-wide circulation, posting on a Community cable television channel, or posting on a Community Internet or intranet page. In lieu of notice of each regular Board meeting, the Board may post or publish a schedule of upcoming Board meetings.

(c) Transactions of any Board meeting, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (i) a quorum is present, and (ii) either before or after the meeting each director 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 meeting's purpose. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

(d) Notice of any meeting at which assessments are to be established shall state that fact and the nature of the assessment.

3.10. Telephonic Participation in Meetings.

Members of the Board or any committee designated by the Board may participate in a Board or committee meeting by means of telephone or other electronic means, through which all persons participating in the meeting can hear each other at the same time. Participation in this manner shall constitute presence at the meeting for all purposes. Participants attending by electronic means may vote by electronic transmission.

3.11. Quorum of Board.

At all Board meetings, 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

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a quorum is present shall constitute the Board's decision, unless these By-Laws or the Declaration specifically provide otherwise. A meeting at which a quorum is initially present may continue, notwithstanding the withdrawal of directors, if at least a majority of the required quorum for that meeting approves any action taken. If the Board cannot hold a meeting because a quorum is not present, a majority of the directors present at such meeting may adjourn the meeting to a time not less than five nor more than 30 days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

3.12. Conduct of Meetings.

The President shall preside over all Board meetings at which he or she is present, and the Secretary shall keep (or cause to be kept) a minute book of Board meetings, recording all Board resolutions and all transactions and proceedings occurring at such meetings.

3.13. Open Meetings; Executive Session.

Subject to the provisions of Section 3.14, all Board meetings shall be open to all Members. However, attendees other than directors may not participate in any discussion or deliberation unless (i) a Member complies with Section 720, Florida Statutes, pertaining to the right of Members to speak, or (ii) a director requests that they be granted permission to speak, and the Board concurs. In such case, the President (or other officer conducting the meeting) may limit the time any such individual may speak. Declarant and Owners may record (audio and video images) Board meetings subject to reasonable rules the Board imposes.

Notwithstanding the above, the President may call a special Board meeting, or adjourn any Board meeting and reconvene in executive session, and may exclude persons other than directors, to discuss with the Association's attorney matters relating to pending or threatened litigation which are protected by the attorney-client privileges, or to discuss among the Board any other matter of a sensitive nature, if applicable law permits. In such cases, no tape recording or video taping will be permitted.

3.14. Action Without a Formal Meeting.

Any action to be taken or which may be taken at a Board meeting may be taken without a meeting if all directors sign a consent in writing, setting forth the action so taken. Such consent shall have the same force and effect as a unanimous vote.

C. Powers and Duties.

3.15. Powers.

The Board shall have all of the powers and duties necessary for administering the Association's affairs and for performing all of the Association's responsibilities and exercising all of the Association's rights as set forth in the Governing Documents, and as provided by law. The Board may do or cause to be done on the Association's behalf all acts and things except those

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which the Governing Documents or applicable law require to be done and exercised exclusively by the membership generally.

3.16. Duties.

The Board's duties shall include, without limitation:

(a) those obligations set forth in the Declaration and elsewhere in these By-Laws;

(b) depositing all funds received on the Association's behalf in a bank depository which it shall approve, and using such funds to operate the Association; however, any reserve funds may be deposited, in the Board's business judgment, in depositories other than banks;

(c) after termination of the Class "B" Control Period, submitting for bid any planned Association expenditure (whether for capital items, services, maintenance, or otherwise) anticipated to exceed $25,000.00 in any fiscal year; however, the Board is not obligated to contract with or otherwise retain the services of the lowest bidder nor is it obligated to submit for bid the renewal of existing contracts;

(d) enforcing by legal means the provisions of the Governing Documents and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association if, in the exercise of its business judgment, it deems it prudent to do so;

(e) keeping books with detailed accounts of the Association's receipts and expenditures; and

(f) maintaining, and retaining for the time periods required, the "official records" of the Association, as provided in Chapter 720, Florida Statutes, or such other applicable law.

3.17. Compensation.

The Association shall not compensate a director for acting as such. The Association may reimburse any director for expenses incurred on the Association's behalf if approved by a majority of the other directors. In addition, nothing herein shall prohibit the Association from compensating a director for services or supplies he or she furnishes to the Association in a capacity other than as a director pursuant to a contract or agreement with the Association. The foregoing also applies to any entity with which a director is affiliated.

3.18. Right of Class "B" Member to Disapprove Actions.

During the period of Class "B" membership, the Class "B" Member shall have a right, to the extent not prohibited by law, to veto any action, policy, or program of the Association, the Board, and/or any committee which, in the Class "B" Member's discretion, would tend to impair rights or interests of Declarant, any Affiliate of Declarant's, or builders, interfere with

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development or construction of any portion of the Community, or diminish the level of services the Association provides.

(a) Notice. The Association, the Board, and each committee shall give the Class "B" Member written notice of their meetings and proposed actions to be approved at their meetings (or by written consent in lieu of a meeting). The notice shall comply with the requirement for notice to directors under Section 3.9 and shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth with reasonable particularity the agenda to be followed at such meeting.

(b) Opportunity to be Heard. The Association, the Board, and each committee shall give the Class "B" Member the opportunity at any meeting to join in, or to have its representatives or agents join in, discussion from the floor concerning any prospective action, policy, or program which would be subject to the veto right described in this Section.

(c) Exercise of Rights. The Class "B" Member may exercise its right to disapprove an action at any time within 30 days following the meeting at which such action was proposed or, if the action is approved without a meeting, at any time within 30 days following receipt of written notice of the proposed action. The Class "B" Member, its representatives or agents, shall make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee. This right to disapproval may be used to block proposed actions but shall not include a right to require any action or counteraction by the Association, the Board, or any committee. The Class "B" Member shall not use its right to prevent expenditures required to comply with applicable laws and regulations.

(d) Condition of Implementation. No action, policy, or program subject to the Class "B" Member's right of disapproval shall become effective or be implemented until and unless the requirements of subsections (a) and (b) above have been met, and then subject to the Class "B" Member's rights under subsection (c).

3.19. Management.

The Board may employ a professional managing agent or agents, at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize and as are otherwise within the scope of the Board's authority. The Board may delegate such powers as are necessary to perform the manager's duties, but shall not delegate policy-making authority or the obligation to adopt a budget. The Board may contract with or employ Declarant or any of its Affiliates as managing agent or manager.

The Board may delegate to one or more of its members the authority to act on the Board's behalf on all matters relating to the duties of the managing agent or manager, if any, which might arise between Board meetings.

The Association shall not be bound, either directly or indirectly, by any management contract executed during the Class "B" Control Period unless such contract contains a right of termination, which the Association may exercise with or without cause and without penalty at

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any time after termination of the Class "B" Control Period upon not more than 90 days written notice. After the Class "B" Control Period terminates, the Association may not terminate any management contract, or retain a new managing agent, without the approval of a majority of the Board of Directors.

The Class "A" Members shall have no right to terminate a management contract during the Class "B" Control Period. Unless the Board otherwise grants such right, or unless the management contract otherwise provides, the Board may act in its discretion with respect to executing and terminating management contracts during the Class "B" Control Period. Any management contract may, among other things, authorize the managing agent to act as the Association's agent with respect to the expenditure of Association funds within the scope of the approved Association budget; however, the managing agent shall not be permitted to spend money in excess of the budget or reallocate greater than 10% of any budget line item without the Board's prior written approval.

3.20. Accounts and Reports.

The following management standards of performance shall be followed unless the Board specifically determines otherwise:

(a) Commencing at the end of the quarter in which the first Lot is sold and closed, the Board shall prepare financial reports for the Association at least quarterly containing:

(i) an income statement reflecting all income and expense activity for the preceding period on a cash or accrual basis;

(ii) a statement reflecting all cash receipts and disbursements for the preceding period;

(iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;

(iv) a balance sheet as of the last day of the preceding period; and

(v) a delinquency report listing all Owners who are delinquent in paying any assessments at the time of the report and describing the status of any action to collect such assessments which remain delinquent (any assessment or installment thereof shall be considered to be delinquent on the 15th day following the due date unless otherwise specified by Board resolution); and

(b) An annual Financial report consisting of at least the following shall be prepared within 60 days (or such longer period as is permitted by law) after the close of the fiscal year: (i) a balance sheet showing actual receipts and expenditures; (ii) an operating (income) statement; and (iii) a statement of changes in financial position for the fiscal year. Such annual report shall be prepared on an audited, reviewed, or compiled basis, as the Board determines, by an independent public accountant.

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The Association shall provide each Owner or its authorized agent a copy of the annual financial report within 10 business days following receipt of a written request for same. In addition, if applicable law requires, the Association shall send a copy of the annual Financial report to each Member by mail or personal delivery following the close of the fiscal year.

3.21. Right To Contract.

The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or other owners or residents associations.

3.22. Fines.

The Association may impose fines, in such amounts as permitted by law, for any violation of the Governing Documents except with regard to assessments. To the extent the Declaration or applicable law specifically requires, the Board shall comply with the following procedures prior to imposition of sanctions:

(a) Notice. The Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation; (ii) the proposed fine to be imposed; (iii) a period of not less than 14 days within which the alleged violator may present a written request for a hearing before the Covenants Committee appointed pursuant to Section 5.2; and (iv) a statement that the proposed fine shall be imposed as contained in the notice unless the alleged violator challenges the violation within 14 days of the notice. If a timely request for a hearing is not made, or if otherwise permitted by the Governing Documents and applicable law, the fine stated in the notice shall be imposed upon majority vote of the Covenants Committee. The Board or Covenants Committee may suspend any proposed fine if the violation is cured, or if a diligent effort is being made to cure, within the 14-day period. Such suspension shall not constitute a waiver of the right to fine future violations of the same or other provisions and/or rules by any Person. If a violator repeats the violation, or engages in a similar violation, for which notice was given within 12 months after the date of the first notice, the Board shall have the discretion to impose the proposed fines if the alleged violations were one continuous violation without the need to serve the alleged violator with additional notice.

(b) Hearing. If the alleged violator requests a hearing within the allotted 14-day period, the hearing shall be held before the Covenants Committee. The alleged violator shall be afforded a reasonable opportunity to be heard. Proof of proper notice shall be placed in the minutes of the meeting. A copy of the notice, together with a statement of the date and manner of delivery signed by the officer, director, or agent who delivered such notice shall be considered adequate proof of notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative appears at the meeting. A written statement of the results of the hearing and the fine, if any, imposed shall be filed with the minutes of the Covenants Committee's meetings.

(c) Additional Enforcement Rights. Notwithstanding anything to the contrary in this Article, subject to any limitations set forth in the Declaration, the Board may elect to

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enforce any provision of the Governing Documents by self-help (specifically including, but not limited to, towing vehicles that violate parking rules) or, following compliance with the Declaration's dispute resolution procedures, if applicable, by suit at law or in equity to enjoin any violation or to recover monetary damages or both. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including, without limitation, reasonable Legal Costs actually incurred.

3.23. Board Training Seminar.

The Board may provide, or provide for, as a Common Expense, seminars and continuing educational opportunities designed to educate and inform directors of their responsibilities as directors. Such programs may include instruction on applicable corporate and fiduciary law principles, other issues relating to administering the Community's affairs, and upholding and enforcing the Governing Documents. The Board may retain industry professionals, including property managers, attorneys, and accountants, as appropriate or necessary for such purpose. Each newly elected director and each re-elected director may be required to complete a training seminar within the first six months of assuming the director position.

3.24. Board Standards.

In performing their duties, directors and officers shall act as fiduciaries and are entitled to insulation from liability as provided for directors and officers of corporations by applicable law and as otherwise provided by the Governing Documents.

A director or officer acting in accordance with the business judgment rule shall not be personally liable to the Association or its Members for errors in judgment made in the director's or officer's capacity as such. Unless the Governing Documents require that specific action be taken, the failure to take such specific action shall not, without further showing that the Board acted in violation of the business judgment rule, be deemed a violation of a Board duty. A director or officer shall be considered to be acting in accordance with the business judgment rule so long as the director or officer:

(a) acts within the expressed or implied scope of the Governing Documents and his or her actions are not *ultra vires*;

(b) affirmatively undertakes to make decisions which are necessary for the Association's continued and successful operation and, when decisions are made, they are made on an informed basis;

(c) acts on a disinterested basis, promptly discloses any real or potential conflict of interests (pecuniary or other), and avoids participation in such decisions and actions; and

(d) acts in a non-fraudulent manner and without reckless indifference to the Association's affairs.

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Board determinations of the meaning, scope, and application of Governing Document provisions shall be upheld and enforced so long as such determinations are reasonable. The Board shall exercise its power in a fair, nondiscriminatory manner and shall adhere to the procedures established in the Governing Documents.

3.25. Conflicts of Interest; Code of Ethics.

Unless otherwise approved by a majority of the other directors, no Class "A" Director may transact business with the Association or the Association contractor during his or her term as director. A Class "A" Director shall promptly disclose in writing to the Board any actual or potential conflict of interest affecting the director relative to his or her performance as a director. A Class "A" Director's failure to make such disclosure shall be grounds for removal by a majority vote of the other Board members. The Board may void any contract which creates a prohibited conflict of interest.

Notwithstanding the above, the directors appointed by the Class "B" Member may be employed by or otherwise transact business with Declarant or any of its Affiliates, and Declarant and its Affiliates may transact business with the Association or its contractors.

Article IV
Officers

4.1. Officers.

The Association's officers shall include a President, Vice President, Secretary, and Treasurer. The officers may, but need not, be Board members, Owners, or residents of the Community; however, so long as there is a Class "B" membership, the appointment of officers who are not residents of the Community shall require the prior written consent of the Class "B" Member. The Board may appoint such other officers, including, without limitation, one or more Vice Presidents, Assistant Secretaries or Assistant Treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two or more offices may be held by the same person, except the offices of President and Secretary.

4.2. Election and Term of Office.

The Board shall elect the Association's officers at the first Board meeting following each Association annual meeting. Officers shall serve until their successors are elected.

4.3. Removal and Vacancies.

Any officer may be removed by a vote of at least a majority of the directors. The Board shall appoint a replacement to fill any vacancy in any office for the unexpired portion of the term. Any officer may be removed at any time.

4.4. Powers and Duties.

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The Association's officers each shall have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as the Board may specifically confer or impose. The President shall be the Association's chief executive officer. The Treasurer shall supervise the preparation of the Association's budget, but may delegate all or part of the preparation and notification duties to a finance committee, managing agent, or both. The Secretary shall prepare or supervise the preparation of meeting minutes as required by applicable law.

4.5. Resignation.

Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. 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, 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 Association instruments shall be executed by an officer, unless the Board provides otherwise, or by such other person or persons as the Board may designate by resolution.

4.7. Compensation.

Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.17.

4.8. President.

The President shall be the chief executive officer of the Association. He or she shall preside at all meetings of the Association and of the Board at which he or she is present. He or she shall have all of the general powers and duties which are usually vested in the office of the President of a corporation, including, but not limited to, the power, subject to the provisions of Article V, to appoint committees from among the Members from time to time as he or she may in his or her discretion decide is appropriate to assist in the conduct of the affairs of the Association. The President shall, subject to the control of the Board, have general supervision, direction, and control of the business of the Association. The President shall be ex-officio a member of all standing committees, and shall have such other powers and duties as may be prescribed by the Board or these By-Laws.

4.9. Vice President.

The Vice President shall take the place of the President and perform his or her duties whenever the President is absent, disabled, or refuses or is unable to act. If neither the President nor the Vice President is able to act, the Board shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be conferred upon him or her by the Board or these By-Laws.

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4.10. Secretary.

The Secretary shall keep (or cause to be kept) the minutes of all meetings of the Board and the minutes of all meetings of the Association at the Association's principal office or at such other places as the Board may order. The Secretary shall keep (or cause to be kept) the seal of the Association in safe custody and shall have charge of such books and papers as the Board may direct. The Secretary shall, in general, perform all of the duties incident to the office of Secretary. The Secretary shall give, or cause to be given, notice of meetings of the Members of the Association and of the Board required by these By-Laws or by law to be given. The Secretary shall maintain (or cause to be maintained) a book of record Owners, listing the names and addresses of the Owners furnished by the Association, and such books shall be changed only at such time as satisfactory evidence of a change in ownership of a Lot is presented to the Secretary. The Secretary shall perform such other duties as may be prescribed by the Board or these By-Laws. The Secretary may delegate all or a part of such duties to the managing agent.

4.11. Treasurer.

The Treasurer shall have responsibility for Association funds and securities and shall be responsible for keeping, or causing to be kept, full and accurate accounts, tax records, and business transactions of the Association, including accounts of all assets, liabilities, receipts, and disbursements in books belonging to the Association. The Treasurer shall be responsible for the deposit of all monies an other valuable effects in the name and to the credit of the Association in such depositories as may from time to time be designated by the Board, in accordance with the Declaration and these By-Laws, shall render to the President and Directors, upon request, an account of all of his or her transactions as Treasurer and of the financial conditions of the Association, and shall have such other powers and perform such other duties as may be prescribed by the Board or these By-Laws. The Treasurer may delegate a part of such duties to the managing agent.

Article V
Committees

5.1. General.

The Board may create such committees and appoint its members, as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution.

Committees shall exercise only such authority as granted by Board resolution, provided the Board may elect not to follow a committee's advice on any matter. Committees may not act without specific Board authority and may not bind the Association contractually or financially.

5.2. Covenants Committee.

The Board shall, from time to time, appoint a Covenants Committee consisting of three persons to serve as a hearing tribunal pursuant to Section 3.22. The Covenants Committee shall be comprised of Members of the Association who are not directors, officers, or employees of the Association or the spouse, parent, child, brother, or sister of a director, officer, or employee.

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5.3. Service Area Committees.

In addition to any other committees appointed as provided above, each Service Area which has no formal organizational structure or association may elect a Service Area Committee to determine the nature and extent of services, if any, to be provided to the Service Area by the Association in addition to those provided to all Members of the Association in accordance with the Declaration. A Service Area Committee may advise the Board on any issue but shall not have the authority to bind the Board. Such Service Area Committee, if elected, shall consist of three Members; provided, if approved by the vote of at least 51% of the Owners of Lots within the Service Area, the number may be increased to five.

Service Area Committee members shall be elected for a term of one year or until their successors are elected. Any director elected to the Board from a Service Area shall be an *ex officio* member of the Service Area Committee. The members of the Service Area Committee shall elect a chairperson from among themselves, who shall preside at its meetings and shall be responsible for transmitting any and all communications to the Board.

In the conduct of its duties and responsibilities, each Service Area Committee shall conduct itself in accordance with the notice, participation, and quorum requirements applicable to the Board under Sections 3.9, 3.10 and 3.11. Meetings of a Service Area Committee shall be open to all Owners of Lots in the Service Area and their representatives. Members of a Service Area Committee may act by unanimous written consent in lieu of a meeting.

5.4. Other Committees.

In addition to the above, the Board may create additional committees, as it deems necessary and useful. The following are examples of types of committees, along with their purpose, which the Board may create:

(a) Finance Committee – to actively assist the Board, the Treasurer, and the Association's managing agent, if any, in preparing the Association's budget.

(b) Operations Committee – to actively assist the Board with maintenance and operation of the Common Maintenance Areas.

(c) Dispute Resolution Committee – to assist in the mediation of disputes concerning the interpretation of Use Restrictions, rules, and other Governing Document provisions and advise the Board on initiating litigation involving the Association (as provided in the Declaration); however, the Dispute Resolution Committee shall not preside over matters relating to the collection of assessments or other fees and charges. Each member of the Dispute Resolution Committee shall attend a Board-approved course on dispute resolution, if the Board so requires.

The Board may establish by resolution the specific scope and limitations on the authority of the above committees.

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Article VI
Miscellaneous

6.1. Fiscal Year.

The Association's fiscal year shall be the calendar year unless otherwise established by Board resolution.

6.2. Parliamentary Rules.

Except as may be modified by Board resolution, *Robert's Rules of Order* (the edition published on the date closest to the meeting) shall govern the conduct of Association proceedings when not in conflict with applicable law or the Governing Documents.

6.3. Conflicts.

Conflicts between or among the Governing Documents and applicable law shall be resolved as directed in the Declaration.

6.4. Books and Records.

(a) Inspection by Members and Mortgagees. 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 appointed representative of any of the foregoing at reasonable times: the Governing Documents, the membership register, books of account, and the minutes of meetings of the Members, the Board, and committees, excepting, however, such records that are not accessible to Members pursuant to Florida law. The Board shall provide for such inspection to take place at the Association's office or at such other place within the Community as the Board shall designate.

(b) Rules for Inspection. The Board may establish reasonable rules with respect to: (i) notice to be given to the custodian of the records; (ii) hours and days of the week when such an inspection may be made; (iii) payment of the cost of reproducing documents requested; and (iv) such other matters as the Board deems appropriate. Records shall be made available within 10 business days of the receipt of a written request by an Owner or his or her authorized agent, or as otherwise required by law.

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all Association books, records, and documents and the physical properties the Association owns or controls. The director's right of inspection includes the right to make a copy of relevant documents at the Association's expense. The Board shall provide for such inspection to take place at the Association's office, the managing agent's office, or at a place within the Community as the Board shall designate.

6.5. Notices.

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(a) Form of Notice and Method of Delivery. Except as otherwise provided in the Declaration or these By-Laws or by applicable law, all notices, demands, bills, statements, or other communications under the Declaration or these By-Laws shall be in writing and may be delivered in person, by United States mail, by private carrier, by facsimile, electronic mail or other electronic communication device with written confirmation of transmission.

(b) Delivery Address. Notices shall be delivered or sent to the intended recipient as follows:

(i) if to a Member, at the address, facsimile number, or e-mail 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 of such Member;

(ii) if to the Association, the Board, or a committee of either, at the address, facsimile number, or e-mail address of the principal office of the Association or its managing agent, or at such other address as the Association shall designate by notice in writing to the Members pursuant to this Section; or

(iii) if to the Declarant, at the principal address of the Declarant as it appears on the Secretary of State's records, or at such other address as the Declarant shall designate by notice in writing to the Association pursuant to this Section.

(c) Effective Date. Notice sent in accordance with subsections (a) and (b) shall be deemed to have been duly given and effective:

(i) if sent by United States mail, when deposited with the U. S. Postal Service, correctly addressed, with first class or higher priority postage prepaid;

(ii) if delivered personally or by private carrier, when actually delivered to the address of the intended recipient, as evidenced by the signature of the person at such address who accepts such delivery; however, if such delivery is refused or if the intended recipient has contracted with the private carrier to leave any deliveries without obtaining a signature evidencing receipt, the notice shall be deemed duly given and effective if the attempt to deliver was timely made;

(iii) if sent by facsimile or electronic mail, upon transmission, as evidenced by a printed confirmation of transmission.

6.6. Amendment.

(a) By Class "B" Member. During the Class "B" Control Period, the Class "B" Member may amend these By-Laws unilaterally, subject to the approval requirements in Article XVI of the Declaration, if applicable; however, if the U.S. Department of Veterans Affairs ("VA") or the U.S. Department of Housing and Urban Development ("HUD") has issued project approval for VA-guaranteed or HUD-insured Mortgages, respectively, then either shall have the right to veto amendments to these By-Laws during the Class "B" Control Period.

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(b) By the Membership. Except as provided above, these By-Laws may be amended only by the affirmative vote or written consent of Members representing at least 67% of the total Class "A" votes in the Association, present or by proxy at any annual or special meeting of the Members and the consent of the Class "B" Member, if such exists. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. The approval requirements set forth in Article XVI of the Declaration also shall be met, if applicable.

(c) Validity and Effective Date of Amendments. Amendments to these By-Laws shall become effective upon recordation unless a later effective date is specified therein. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

No amendment may remove, revoke, or modify any right or privilege of Declarant or the Class "B" Member without the written consent of Declarant, the Class "B" Member, or the assignee of such right or privilege.

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CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of Triple Creek Homeowners Association, Inc., a Florida corporation;

That the foregoing By-Laws constitute the original By-Laws of said Association, as duly adopted at a meeting of the Board of Directors thereof held on the 28th day of June, 2007.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 27th day of July, 2007.

Shirl Bush
Secretary [SEAL]