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DECLARATION OF RESTRICTIONS AND COVENANTS
FOR
THE BAYWINDS COMMUNITY

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**DECLARATION OF RESTRICTIONS AND COVENANTS
FOR
THE BAYWINDS COMMUNITY**

THIS DECLARATION OF RESTRICTIONS AND COVENANTS FOR BAYWINDS COMMUNITY (this "Declaration") is made this 22nd day of February, 2000 by Lennar Land Partners, a Florida general partnership ("Lennar") and joined in by Lennar Homes, Inc. ("LHI") and by Baywinds Community Association, Inc., a Florida not-for-profit corporation.

RECITALS

- A. Lennar and LHI are the owners of the real property in Palm Beach County, Florida, more particularly described in Exhibit 1 attached hereto and made a part hereof ("Baywinds").
- B. Lennar and LHI desire to subject Baywinds to the covenants, conditions and restrictions contained in this Declaration.
- C. This Declaration is a covenant running with all of the land comprising Baywinds, and each present and future owner of interests therein and their heirs, successors and assigns are hereby subject to this Declaration:

NOW THEREFORE, in consideration of the premises and mutual covenants contained in this Declaration, Lennar and LHI hereby declare that every portion of Baywinds is to be held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions, restrictions, easements, reservations, regulations, charges and liens hereinafter set forth.

- 1. Recitals. The foregoing Recitals are true and correct and are incorporated into and form a part of this Declaration.
- 2. Definitions.

In addition to the terms defined elsewhere in this Declaration, all initially capitalized terms herein shall have the following meanings:

"ACC" shall mean the Architectural Control Committee established pursuant to Section 19 hereof.

"Age of Residents" shall have the meaning set forth in Section 24 hereof.

"Apartment Building" shall mean any multifamily structure with individual residential apartments which are leased (and not sold) on an individual basis. An Apartment Building does not include a building submitted to condominium ownership.

"Articles" shall mean the Articles of Incorporation of Association filed with the Florida Secretary of State in the form attached hereto as Exhibit 2 and made a part hereof.

"Assessments" shall mean any assessments made in accordance with this Declaration and as further defined in Section 17.1 hereof.

"Association" shall mean Baywinds Community Association, Inc., its successors and assigns.

"Association Documents" shall mean this Declaration, the Articles, the By-Laws, the Rules and Regulations, and the Community Standards.

"Basic Service" shall mean "basic service tier" as described in Section 623(b)(7)(A) of the Cable Television Consumer Protection Act of 1992.

"Baywinds" shall have the meaning set forth in the Recitals hereof subject to additions and deletions thereto as permitted pursuant to the terms of this Declaration. Developer may, when amending or modifying the description of real property which is subject to the operation of this Declaration, also amend or modify the definition of Baywinds.

"Board" shall mean the Board of Directors of Association.

"Builder" shall mean any person or entity that purchases a Parcel from Developer for the purpose of constructing one or more Homes.

"By-Laws" shall mean the By-Laws of Association in the form attached hereto as Exhibit 3 and made a part hereof.

"Club" shall mean the Baywinds Club, including the land and club facilities provided for the Owners pursuant to the provisions of Club Covenants.

"Club Charges" shall mean the charges related to the Club to be paid by the Owners pursuant to the provisions of the Club Covenants including, without limitation, the Club Fee.

"Club Covenants" shall mean the Baywinds Club Covenants together with all amendments and modifications thereof. A copy of the Club Covenants is attached hereto as Exhibit 4 and made a part hereof. This Declaration is subordinate in all respects to the Club Covenants.

"Club Fee" shall mean the fee to be paid to the Club Owner by each Owner pursuant to the provisions of this Declaration and the Club Covenants.

"Club Manager" shall mean the entity operating and managing the Club at any given time. As provided in the Club Covenants, Association may, at the direction of Club Owner, be required to act as Club Manager from time to time.

"Club Operating Costs" shall have the meaning set forth in the Club Covenants.

"Club Owner" shall mean the owner of the Club, its successors and assigns. Presently the Club Owner is Lennar.

"Common Areas" shall mean all real property interests and personalty within Baywinds designated as Common Areas from time to time by Plat or recorded amendment to this Declaration and provided for, owned, leased by, or dedicated to, the common use and enjoyment of the Owners within Baywinds. The Common Areas may include, without limitation, open space areas, internal buffers, neighborhood entrance features, perimeter buffers, improvements, easement areas owned by others, additions, lakes, fountains, irrigation pumps, irrigation lines, parks, sidewalks, streets (excluding those streets owned or to be owned by a Neighborhood Association), street lights, service roads, walls, commonly used utility facilities, project signage, parking areas, other lighting, entranceways, features, entrance gates, gatehouses and a community Monitoring System. The Common Areas do not include any portion of a Home or the Club. NOTWITHSTANDING ANYTHING HEREIN CONTAINED TO THE CONTRARY, THE DEFINITION OF "COMMON AREAS" AS SET FORTH IN THIS DECLARATION IS FOR DESCRIPTIVE PURPOSES ONLY AND SHALL IN NO WAY BIND OR OBLIGATE DEVELOPER TO CONSTRUCT OR SUPPLY ANY SUCH ITEM AS SET FORTH IN SUCH DESCRIPTION, THE CONSTRUCTION OR SUPPLYING OF ANY SUCH ITEM BEING IN DEVELOPER'S SOLE DISCRETION. FURTHER, NO PARTY SHALL BE ENTITLED TO RELY UPON SUCH DESCRIPTION AS A REPRESENTATION OR WARRANTY AS TO THE EXTENT OF THE COMMON AREAS TO BE OWNED, LEASED BY OR DEDICATED TO ASSOCIATION, EXCEPT AFTER CONSTRUCTION AND DEDICATION OR CONVEYANCE OF ANY SUCH ITEM.

"Community Completion Date" shall mean the date upon which all Homes in Baywinds, as ultimately planned and as fully developed, have been conveyed by Developer and/or Builder(s) to Owners.

"Community Standards" shall mean such standards of conduct, maintenance or other activity, if any, established by the ACC pursuant to Section 19.5 hereof.

"Condominium" shall mean any condominium created pursuant to the Florida Condominium Act within Baywinds.

"Condominium Association" shall mean any condominium association responsible for maintaining the common elements to Homes forming a condominium.

"Condominium Unit" shall mean each Home which is part of a Condominium.

"Contractors" shall have the meaning set forth in Section 19.12.2 hereof.

"Data Transmission Services" shall mean enhanced services as defined in Section 64.702 of Title 47 of the Code of Federal Regulations, as amended from time to time, and without regard to whether the transmission facilities are used in interstate commerce.

"Declaration" shall mean this Declaration, together with all amendments and modifications thereof.

"Developer" shall mean Lennar and any of its designees (including its affiliated or related entities which conduct land development, homebuilding and sales activities), successors and assigns who receive a written assignment of all or some of the rights of Developer hereunder. Such assignment need not be recorded in the Public Records in order to be effective. In the event of such a partial assignment, the assignee shall not be deemed Developer, but may exercise such rights of Developer specifically assigned to it. Any such assignment may be made on a non-exclusive basis.

"Environmental Resource Permit" shall mean Permit No.50-03926-P issued by SFWMD, a copy of which is attached hereto as Exhibit 5.

"Expanded Basic Service" shall mean video programming services offered in addition to Basic Service, excluding Premium Channels.

"Home" shall mean a residential home and appurtenances thereto constructed on a Parcel within Baywinds. A Home shall include, without limitation, a condominium unit, coach home, villa, townhouse unit, single family home, zero lot line home, and each residential apartment within an Apartment Building. The term Home may not reflect the same division of property as reflected on a Plat. A Home shall be deemed created and have perpetual existence upon the issuance of a final or temporary Certificate of Completion for such residence; provided, however, the subsequent loss of such Certificate of Completion (e.g., by casualty or remodeling) shall not affect the status of a Home, or the obligation of Owner to pay Assessments with respect to such Home. The term "Home" includes any interest in land, improvements, or other property appurtenant to the Home.

"Individual Assessments" shall have the meaning set forth in Section 17.2.5 hereof.

"Installment Assessments" shall have the meaning set forth in Section 17.2.1 hereof.

"Lake Slope Maintenance Standards" shall have the meaning set forth in Section 15.11 hereof.

"Lender" shall mean the holder of a first mortgage encumbering a Parcel or Home.

"Lennar" shall mean Lennar Land Partners, a Florida general partnership, its successors and assigns.

"Master Plan" shall mean collectively the any full or partial concept plan for the development of Baywinds, as it exists as of the date of recording this Declaration, regardless of whether such plan is currently on file with one or more governmental agencies. The Master Plan is subject to change as set forth herein. The Master Plan is not a representation

by Developer as to the development of Baywinds or its amenities, as Developer reserves the right to amend all or part of the Master Plan from time to time. The Master Plan is presently an exhibit to the Title Documents.

"Mitigation Monitoring System" shall mean the periodic evaluation of mitigation areas after restoration/creation efforts are completed. Mitigation monitoring is required by the terms and conditions of the Environmental Resource Permit. Please refer to the terms and conditions of the approved Environmental Resource Permit for monitoring methodology and schedule, which shall be performed as set forth in Section 11.3 herein.

"Monitoring System" shall mean any electronic surveillance and/or monitoring system intended to control access, provide alarm service, and/or enhance the welfare of Baywinds. By way of example, and not of limitation, the term Monitoring System may include a central alarm system, electronic entrance gates, gatehouses, roving attendants, wireless communication to Homes, or any combination thereof. THE PROVISION OF A MONITORING SYSTEM SHALL IN NO MANNER CONSTITUTE A WARRANTY OR REPRESENTATION AS TO THE PROVISION OF OR LEVEL OF SECURITY WITHIN BAYWINDS. DEVELOPER, BUILDERS, ANY CONDOMINIUM ASSOCIATION, CLUB OWNER, CLUB MANAGER, NEIGHBORHOOD ASSOCIATIONS, AND THE ASSOCIATION DO NOT GUARANTEE OR WARRANT, EXPRESSLY OR BY IMPLICATION, THE MERCHANTABILITY OF FITNESS FOR USE OF ANY MONITORING SYSTEM, OR THAT ANY SUCH SYSTEM (OR ANY OF ITS COMPONENTS OR RELATED SERVICES) WILL PREVENT INTRUSIONS, FIRES, OR OTHER OCCURRENCES, REGARDLESS OF WHETHER OR NOT THE MONITORING SERVICE IS DESIGNED TO MONITOR THE SAME. EACH AND EVERY OWNER AND THE OCCUPANT OF EACH HOME ACKNOWLEDGES THAT DEVELOPER, BUILDERS, ANY CONDOMINIUM ASSOCIATION, CLUB OWNER, CLUB MANAGER, NEIGHBORHOOD ASSOCIATIONS AND THE ASSOCIATION, THEIR EMPLOYEES, AGENTS, MANAGERS, DIRECTORS, AND OFFICERS, ARE NOT INSURERS OF OWNERS OR HOMES, OR THE PERSONAL PROPERTY LOCATED WITHIN HOMES. DEVELOPER, BUILDERS, ANY CONDOMINIUM ASSOCIATION, CLUB OWNER, CLUB MANAGER, NEIGHBORHOOD ASSOCIATIONS, AND THE ASSOCIATION WILL NOT BE RESPONSIBLE OR LIABLE FOR LOSSES, INJURIES, OR DEATHS RESULTING FROM ANY SUCH EVENTS.

"Multichannel Video Programming Service" shall mean any method of delivering video programming to Homes including, without limitation, interactive video programming. By way of example, and not of limitation, the term Multichannel Video Programming Service may include cable television, satellite master antenna television, multipoint distribution systems, video dialtone, open video system or any combination thereof.

"Neighborhood" shall mean any subdivision of Baywinds which is subject to the jurisdiction of a Neighborhood Association. Each Home shall be part of a Neighborhood.

"Neighborhood Association" shall mean any homeowners or condominium association which governs a portion of Baywinds.

"Neighborhood Common Areas" shall mean all property owned and/or maintained by a Neighborhood Association.

"Neighborhood Declaration" shall mean any declaration recorded in the Public Records governing a Neighborhood including, without limitation, any condominium declaration. No Neighborhood Declaration shall be effective unless and until approved by Developer, which approval shall be evidenced by Developer's execution of, or joinder in, such Neighborhood Declaration.

"NPBCID" shall mean the Northern Palm Beach County Improvement District.

"Operating Costs" shall mean all costs and expenses of Association and the Common Areas including, without limitation, all costs of ownership; operation; administration; all amounts payable by Association; all amounts required to maintain the surface water management system; all community lighting including up-lighting and Neighborhood entrance lighting (if not the obligation of a Neighborhood Association), all amounts payable in connection with any

private street lighting agreement between Association and FPL; amounts payable to a Telecommunications Provider for Telecommunications Services furnished to all Owners; utilities; taxes; insurance; bonds; Monitoring System costs; salaries; management fees; professional fees; service costs; supplies; maintenance; repairs; replacements; refurbishments; common area landscape maintenance; and any and all costs relating to the discharge of the obligations hereunder and/or under the Club Covenants, or as determined to be part of the Operating Costs by Association. By way of example, and not of limitation, Operating Costs shall include all of Association's legal expenses and costs relating to or arising from the enforcement and/or interpretation of this Declaration and/or the Club Covenants.

"Outparcel Covenants" shall have the meaning set forth in Section 9.

"Owner" shall mean the record owner (whether one or more persons or entities) of fee simple title to any Home. The term **"Owner"** shall not include Developer, Club Owner, or a Lender. A purchaser of a Parcel who thereafter builds one or more Homes upon such Parcel shall be deemed an Owner with respect to each such Home. For example, an Owner of an Apartment Building is an Owner with respect to each Home within such Apartment Building.

"Parcel" shall mean a platted or unplatted lot, tract, unit or other subdivision of real property upon which a Home has been, or will be, constructed. Once improved, the term Parcel shall include all improvements thereon and appurtenances thereto. The term Parcel, as used herein, may include more than one Home.

"Plat" shall mean any plat of any portion of Baywinds filed in the Public Records, as the same may be amended by Developer, from time to time.

"Premium Channels" shall mean any channel recognized in the industry as premium including, without limitation, HBO, Showtime, Disney, Cinemax and the Movie Channel.

"Public Records" shall mean the Public Records of Palm Beach County, Florida.

"Reserves" shall have the meaning set forth in Section 17.2.4 hereof.

"Rules and Regulations" shall mean the Rules and Regulations governing Baywinds as adopted by the Board from time to time.

"SFWMD" shall mean the South Florida Water Management District.

"Special Assessments" shall mean those Assessments more particularly described as Special Assessments in Section 17.2.2 hereof.

"Surface Water Management System" shall mean the collection of devices, improvements, or natural systems whereby surface waters are controlled, impounded or obstructed. This term includes exfiltration trenches, wetland preservation areas, mitigation areas, lakes, dams, impoundments, reservoirs, drainage maintenance easements and those works defined in Section 373.403(1)-(5) of the Florida Statutes. The Baywinds surface water management system includes those works authorized by SFWMD pursuant to the Environmental Resource Permit.

"Telecommunications Provider" shall mean any party contracting with Association to (i) provide Owners with one or more Telecommunications Services or (ii) to own, maintain and repair Telecommunications Systems allowing Telecommunications Services to be provided to Baywinds. Developer may be a Telecommunications Provider. With respect to any particular Telecommunications Services, there may be one or more Telecommunications Providers. By way of example, with respect to Multichannel Video Programming Service, one Telecommunications Provider may provide Association such service while another may own, maintain and service the Telecommunications Systems which allow delivery of such Multichannel Video Programming Service.

"Telecommunications Services" shall mean local exchange services provided by a certified local exchange carrier or alternative local exchange company, intraLATA, and interLATA voice telephony and Data Transmission Service.

Multichannel Video Programming Service, and Monitoring System. Without limiting the foregoing, such Telecommunications Services may include the provision of the following services: Toll Calls, Data Transmission Services, Basic Service and Premium Channels.

"Telecommunications Systems" shall mean all facilities, items and methods required and/or used in order to provide Telecommunications Services to Baywinds. Without limiting the foregoing, Telecommunications Systems may include wires (fiber optic or other material), conduits, passive and active electronic equipment, pipes, wireless cell sites, computers, modems, satellite antennae site(s), transmission facilities, amplifiers, junction boxes, trunk distribution, drop cables, related apparatus, converters, connections, head-end antennae, earth station(s), appurtenant devices, network facilities necessary and appropriate to support provision of local exchange services and/or any other item appropriate or necessary to support provision of Telecommunications Services. Ownership and/or control of all of a portion of any part of the Telecommunications Services may be bifurcated among network distribution architecture, system head-end equipment, and appurtenant devices (e.g., individual adjustable digital units).

"Title Documents" shall have the meaning set forth in Section 25.7 hereof.

"Toll Calls" shall have meaning given to such term by the Florida Public Service Commission and/or the Federal Communications Commission.

"Turnover Date" shall mean, unless turned over sooner by Developer in its sole discretion, three (3) months after the date upon which ninety percent (90%) of the Homes which will ultimately be built on Parcels within Baywinds have been conveyed by Developer to Owners.

"Use Fees" shall have the meaning set forth in Section 17.23 hereof.

"Working Capital Fund" shall have the meaning set forth in Section 17.12 hereof.

"Zero Lot Line Wall" shall mean a wall built directly on a lot line which forms part of a Home commonly known as a zero lot line. If there is any question about whether a Home is a zero lot line residence, or which portion of a residence is a Zero Lot Line Wall, the Association's determination shall be final.

3. **Plan of Development.** The planning process for Baywinds is an ever-evolving one and must remain flexible in order to be responsible to and accommodate the needs of Developer's buyers. Subject to the Title Documents, Developer may wish and has the right to develop Baywinds and adjacent property owned by Developer into residences, comprised of homes, villas, coach homes, townhomes, zero lot line homes, patio homes, single-family homes, estate homes, multi-family homes, condominiums, rental apartments, and other forms of residential dwellings, as well as commercial development, which may include shopping centers, stores, office buildings, showrooms, industrial facilities, technological facilities, and professional offices. The existence at any point in time of walls, landscape screens, or berms is not a guaranty or promise that such items will remain or form part of Baywinds as finally developed.

4. **Amendment.**

4.1. **General Restrictions on Amendments.** Notwithstanding any other provision herein to the contrary, no amendment to this Declaration shall affect the rights of Developer or Club Owner unless such amendment receives the prior written consent of Developer or Club Owner, as applicable, which may be withheld for any reason whatsoever. No amendment shall alter the provisions of this Declaration benefiting Lenders without the prior approval of the Lender(s) enjoying the benefit of such provisions. If the prior written approval of any governmental entity or agency having jurisdiction is required by applicable law or governmental regulation for any amendment to this Declaration, then the prior written consent of such entity or agency must also be obtained. All amendments must comply with Section 11.3.2 which benefits the SFWMD and Section 11.4.3 which benefits NPBCID. No amendment to this Declaration shall affect the rights of Builder(s) unless such amendment receives the prior written consent of Builder(s), which consent will not be unreasonably withheld. No amendment shall be effective until it is recorded in the Public Records.

4.2. Amendments Prior to the Turnover Date. Prior to the Turnover Date, Developer shall have the right to amend this Declaration as it deems appropriate, without the joinder or consent of any person or entity whatsoever. Such amendments may include, without limitation, the creation of easements for Telecommunications Systems, utility, drainage, ingress and egress and roof overhangs over any portion of Baywinds; additions or deletions from the properties comprising the Common Areas; changes in the Rules and Regulations, and modifications of restrictions on the Homes, and maintenance standards for landscaping. Developer's right to amend under this provision is to be construed as broadly as possible. By way of example, and not as a limitation, Developer may create easements over Homes conveyed to Owners provided that such easements do not prohibit the use of such Homes as a residential homes. In the event that Association shall desire to amend this Declaration prior to the Turnover Date, Association must first obtain Developer's prior written consent to any proposed amendment. Thereafter, an amendment identical to that approved by Developer may be adopted by Association pursuant to the requirements for amendments from and after the Turnover Date. Thereafter, Developer shall join in such identical amendment so that its consent to the same will be reflected in the Public Records.

4.3. Amendments From and After the Turnover Date. After the Turnover Date, but subject to the general restrictions on amendments set forth above, this Declaration may be amended with the approval of (i) sixty six and 2/3 percent (66 $\frac{2}{3}$ %) of the Board; and (ii) seventy-five percent (75%) of all of the votes in Association.

5. Annexation and Withdrawal.

5.1. Annexation by Developer. Prior to the Turnover Date, additional lands may be made part of Baywinds by Developer. Except for applicable governmental approvals (if any), no consent to such annexation shall be required from any other party (including, but not limited to, Association, Owners or any Lenders of any Parcel or Home). Such annexed lands shall be brought within the provisions and applicability of this Declaration by the recording an amendment to this Declaration in the Public Records. The amendment shall subject the annexed lands to the covenants, conditions, and restrictions contained in this Declaration as fully as though the annexed lands were described herein as a portion of Baywinds. Such amendment may contain additions to, or modifications of, the covenants, conditions, and restrictions contained in this Declaration as deemed appropriate by Developer and as may be necessary to reflect the different character, if any, of the annexed lands. Prior to the Turnover Date, only Developer may add additional lands to Baywinds.

5.2. Annexation by Association. After the Turnover Date, and subject to applicable governmental approvals (if any), additional lands may be annexed with the approval of (i) sixty-six and 2/3 percent (66 $\frac{2}{3}$ %) of the Board; and (ii) seventy-five percent (75%) of all of the votes in Association.

5.3. Withdrawal. Prior to the Turnover Date, any portions of Baywinds (or any additions thereto) may be withdrawn by Developer from the provisions and applicability of this Declaration by the recording of an amendment to this Declaration in the Public Records. The right of Developer to withdraw portions of Baywinds shall not apply to any Home which has been conveyed to an Owner unless that right is specifically reserved in the instrument of conveyance or the prior written consent of the Owner is obtained. The withdrawal of any portion of Baywinds shall not require the consent or joinder of any other party (including, but not limited to, Association, Owners, or any Lenders of any Parcel or Home). Association shall have no right to withdraw land from Baywinds.

6. Dissolution.

6.1. Generally. In the event of the dissolution of Association without reinstatement within thirty (30) days, other than incident to a merger or consolidation, any Owner may petition the Circuit Court of the appropriate Judicial Circuit of the State of Florida for the appointment of a receiver to manage the affairs of the dissolved Association and to manage the Common Areas in the place and stead of Association, and to make of such provisions as may be necessary for the continued management of the affairs of the dissolved Association.

6.2. Applicability of Declaration after Dissolution. In the event of dissolution of Association, Baywinds and each Home therein shall continue to be subject to the provisions of this Declaration, including, without limitation, the

provisions respecting Assessments and the Club specified in this Declaration and/or the Club Covenants. Each Owner shall continue to be personally obligated to the successors or assigns of Association and/or Club Owner, as the case may be, for Assessments and Club Charges to the extent that Assessments and Club Charges are required to enable the successors or assigns of the Association and/or Club Owner to properly maintain, operate and preserve the Common Areas and/or Club. Without limiting the foregoing, the obligation of each Owner to pay the Club Fee shall survive the dissolution of the Association. The provisions of this Section shall only apply with regard to the maintenance, operation, and preservation of those portions of Baywinds which had been Common Areas and/or comprised part Club and continue to be so used for the common use and enjoyment of the Owners.

7. Binding Effect and Membership.

7.1. Term. The term of this Declaration shall be perpetual. Each Owner, by acceptance of title to a Home or Parcel, and any person claiming by, through or under such Owner, agrees to be subject to this Declaration and the provisions hereof. The provisions of this Declaration are equitable servitudes and run with the land.

7.2. Transfer. The transfer of the fee simple title to a Home, whether voluntary or by operation of law, terminating the Owner's title to that Home shall terminate the Owner's rights to the use of and enjoyment of the Common Areas as it pertains to that Home. An Owner's rights and privileges under this Declaration are not assignable separately from a Home. The Owner of each Home is entitled to the benefits of, and is burdened with the duties and responsibilities set forth in, the provisions of this Declaration. All parties acquiring any right, title and interest in and to any Home shall be fully bound by the provisions of this Declaration. In no event shall any Owner acquire any rights that are greater than the rights granted to, and limitations placed upon its predecessor in title pursuant to the provisions of this Declaration. In the event that any Owner desires to sell or otherwise transfer title of his or her Home, such Owner shall give the Board at least fourteen (14) days prior written notice of the name and address of the purchaser or transferee, the date on which such transfer of title is to take place, and such other information as the Board may reasonably require. The transferor shall remain jointly and severally liable with the transferee for all obligations of the Owner and the Home pursuant to this Declaration including, without limitation, payment of all Assessments accruing prior to the date of transfer. Until written notice is received as provided in this Section, the transferor and transferee shall be jointly and severally liable for Assessment accruing subsequent to the date of transfer. In the event that upon the conveyance of a Home an Owner fails in the deed of conveyance to reference the imposition of this Declaration on the Home, the transferring Owner shall remain liable for Assessments accruing on the Home from and after the date of conveyance.

7.3. Membership. Upon acceptance of title to a Home, and as more fully provided in the Articles and By-Laws, each Owner shall be a member of Association. Membership rights are governed by the provisions of the Articles and By-Laws. Membership shall be an appurtenance to and may not be separated from, the ownership of a Home. Developer rights with respect to Association are set forth in the Articles and By-Laws.

7.4. Ownership by Entity. In the event that an Owner is other than a natural person, that Owner shall, prior to occupancy of the Home, designate one or more persons who are to be the occupants of the Home and register such persons with Association. All provisions of this Declaration and Rules and Regulations promulgated pursuant thereto shall apply to both such Owner and the designated occupants.

7.5. Voting Interests. Voting interests in Association are governed by the provisions of the Articles and By-Laws.

7.6. Document Recordation by Owners Prohibited. Neither Association nor any Owner, nor group of Owners, may record any documents which, in any way, affect or restrict the rights of Developer or Club Owner, or conflict with the provisions of this Declaration.

7.7. Conflicts. In the event of any conflict among this Declaration, a Neighborhood Declaration, the Articles, By-Laws or any of the Association Documents, this Declaration shall control. In the event that a Neighborhood Declaration is more restrictive than this Declaration, the Neighborhood Declaration shall control.

8. Paramount Right of Developer. Notwithstanding anything to the contrary herein, prior to the Community Completion Date Developer shall have the paramount right to dedicate, transfer, and/or convey (by absolute conveyance, easement, or otherwise) portions of Baywinds for various public purposes or for the provision of Telecommunications Systems, or to make any portions of Baywinds part of the Common Areas, or to create and implement a special taxing district which may include all or any portion of Baywinds. In addition, the Common Areas of Baywinds may include decorative improvements, berms, waterfalls, and waterbodies. **SALES BROCHURES, SITE PLANS, AND MARKETING MATERIALS ARE CURRENT CONCEPTUAL REPRESENTATIONS AS TO WHAT FACILITIES, IF ANY, WILL BE INCLUDED WITHIN THE COMMON AREAS. DEVELOPER SPECIFICALLY RESERVES THE RIGHT TO CHANGE THE LAYOUT, COMPOSITION, AND DESIGN OF ANY AND ALL COMMON AREAS AT ANY TIME WITHOUT NOTICE AT ITS DISCRETION.**

9. Obligation of Association to Enforce Covenants. In addition to this Declaration, Association may be given the right to enforce landscape standards and other covenants burdening property not included within Baywinds ("Outparcel Covenants"). Association shall have an affirmative obligation to enforce all Outparcel Covenants by all necessary legal action, including the bringing of necessary lawsuits. Because the Outparcel Covenants affect the appearance of properties adjacent to or in the vicinity of Baywinds, such Outparcel Covenants benefit all Owners and assist in preserving the value of Homes. Therefore, all costs of enforcing the Outparcel Covenants, including, without limitation, attorney's fees, paraprofessional fees, and expenses, at trial and upon appeal, shall be deemed part of Operating Costs.

10. Operation of Common Areas.

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

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

10.3. Use of Common Areas by Developer. Until the Community Completion Date Developer shall have the right to use any portion of the Common Areas, without charge, for any purpose deemed necessary by Developer.

10.4. Conveyance. Within sixty (60) days after the Community Completion Date, or earlier as determined by Developer in its sole discretion, all or portions of the Common Areas may be dedicated by Plats, created in the form of easements, or conveyed by written instrument recorded in the Public Records, or by Quitclaim Deed from

Developer to Association. The dedication, creation by easement, or conveyance shall be subject to easements, restrictions, reservations, conditions, limitations, and declarations of record, real estate taxes for the year of conveyance, zoning, land use regulations and survey matters. Association shall be deemed to have assumed and agreed to pay all continuing obligations and service and similar contracts relating to the ownership operation, maintenance, and administration of the conveyed portions of Common Areas and other obligations relating to the Common Areas imposed herein. Association shall, and does hereby, indemnify and hold Developer harmless on account thereof. Association, by its joinder in this Declaration, hereby accepts such dedication(s) or conveyance(s) without setoff, condition, or qualification of any nature. The Common Areas, personal property and equipment thereon and appurtenances thereto shall be dedicated or conveyed in "as is, where is" condition WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESSED OR IMPLIED, IN FACT OR BY LAW, AS TO THE CONDITION, FITNESS OR MERCHANTABILITY OF THE COMMON AREAS BEING CONVEYED. Notwithstanding the foregoing, any such conveyance or encumbrance of such Common Areas is subject to each irrevocable Owner's ingress and egress easement to his or her Home as set forth in this Declaration.

10.5. Operation After Conveyance. After the conveyance or dedication of any portion of the Common Areas to Association, the portion of the Common Areas so dedicated shall be owned, operated and administered by Association for the use and benefit of the owners of all property interests in Baywinds including, but not limited to, Association, Developer, Club Owner, Owners and any Lenders. Subject to Association's right to grant easements, and other interests as provided herein, Association may not convey, abandon, alienate, encumber, or transfer all or a portion of the Common Areas to a third party without (i) if prior to the Community Completion Date, the approval of (a) a majority of the Board; and (b) the consent of Developer and Club Owner, or (ii) from and after the Community Completion Date approval of (a) sixty-six and two-thirds percent (66 2/3%) of the Board; (b) seventy-five percent (75%) of all of the votes in Association; and (c) the consent of the Club Owner being first had and obtained.

10.6. Paved Common Areas. Without limiting any other provision of this Declaration, Association is responsible for the maintenance of all roads, pathways, bicycle paths, and sidewalks forming a part of the Common Areas. Although pavement appears to be a durable material, it requires maintenance. Association shall have the right, but not the obligation, to arrange for an annual inspection of all roads and sidewalks forming a part of the Common Areas by a licensed paving contractor and/or engineer with a Florida Department of Transportation Asphalt Pavement Certification. The cost of such inspection shall be a part of the Operating Costs of Association. Association shall determine annually the parameters of the inspection to be performed, if any. By way of example, and not of limitation, the inspector may be required to inspect the roads and sidewalks forming part of the Common Areas annually for deterioration and to advise Association of the overall pavement conditions including any upcoming maintenance needs. Any patching, grading, or other maintenance work should be performed by a Company licensed to perform the work. From and after the Community Completion Date, Association should monitor the roads and sidewalks forming the Common Areas monthly to ensure that vegetation does not grow into the asphalt and that there are no eroded or damaged areas that need immediate maintenance.

10.7. Delegation. Once conveyed or dedicated to Association, the Common Areas and facilities and improvements located thereon shall, subject to the provisions of this Declaration and the document of conveyance or dedication, at all times be under the complete supervision, operation, control, and management of Association. Notwithstanding the foregoing Association may delegate all or a portion of its obligations hereunder to a licensed manager or professional management company. Further, in the event that Common Area is created by easement, Association's obligations and rights with respect to such Common Area may be limited by the terms of the document creating such easement.

10.8. Use.

10.8.1. Nonexclusive Use. The Common Areas shall be used and enjoyed by the Owners on a non-exclusive basis in common with other persons, entities and corporations (who may, but are not required to be, members of Association) entitled to use those portions of the Common Areas. Prior to the Community Completion Date, Developer, and thereafter, Association, has the right, at any and all times, and from time to time, to further additionally provide and make the Common Areas available to other individuals, persons, firms, or corporations, as it

deems appropriate. The granting of such rights shall not invalidate this Declaration, reduce or abate any Owner's obligations pursuant to this Declaration, or give any Owner the right to avoid any of the covenants, agreements or obligations to be performed hereunder. Without limiting the foregoing, Club Owner and all persons having a right to use the Club (whether or not they are Owners or members of the general public) shall have the right to use the Common Areas for pedestrian and vehicular ingress and egress to the Club for all purposes, and for maintenance, repair, and replacement of the Club.

10.8.2. Right to Allow Use. Developer and/or Association may enter into easement agreements or other use or possession agreements whereby the Owners, Service Providers, and/or Association and/or others may obtain the use, possession of, or other rights regarding certain property, on an exclusive or non-exclusive basis, for certain specified purposes. Association may agree to maintain and pay the taxes, insurance, administration, upkeep, repair, and replacement of such property, the expenses of which shall be Operating Costs. Any such agreement by Association prior to the Community Completion Date shall require the consent of Developer and Club Owner. Thereafter, any such agreement shall require the approval of the majority of the Board of Directors, and the consent of Club Owner, which consent shall not be unreasonably withheld or delayed.

10.8.3. Waterbodies. Developer and Association shall not be obligated to erect fences, gates, or walls around or adjacent to any waterbody or waterfall within Baywinds. Notwithstanding the foregoing, an Owner may erect a fence adjacent to the boundary of a waterbody but within the boundary of a Home with the prior approval of the ACC. No fence or other structure may be placed within any lake maintenance easement. Petroleum powered, motorized watercraft are expressly prohibited from operation on lakes within Baywinds pursuant to the Title Documents. Swimming will not be permitted in any waterbody. No docks may be erected within any waterbody forming part of the Common Areas.

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

10.8.5. Assumption of Risk. Without limiting any other provision herein, each person using any portion of the Common Areas accepts and assumes all risk and responsibility for noise, liability, injury, or damage connected with use of such Common Areas including, without limitation, (a) noise from maintenance equipment, (b) use of pesticides, herbicides and fertilizers, (c) view restrictions caused by maturation of trees and shrubbery, (d) reduction in privacy caused by the removal or pruning of shrubbery or trees within Baywinds, and (e) design of any portion of Baywinds. Each such person also expressly indemnifies and agrees to hold harmless Developer, Association, Neighborhood Associations, Club Owner, Club Manager, and all employees, directors, representatives, officers, agents, and partners of the foregoing, from any and all damages, whether direct or consequential, arising from or related to the person's use of the Common Areas, including for attorneys' fees, paraprofessional fees and costs at trial and upon appeal. Without limiting the foregoing, all persons using the Common Areas, including without limitation, all waterbodies, lakes, pools or areas adjacent to a lake, do so at their own risk. BY ACCEPTANCE OF A DEED, EACH OWNER ACKNOWLEDGES THAT THE COMMON AREAS MAY CONTAIN WILDLIFE SUCH AS ALLIGATORS, RACCOONS, DEER, SWINE, TURKEYS, SNAKES, DUCKS, AND FOXES. DEVELOPER, BUILDERS, ASSOCIATION, NEIGHBORHOOD ASSOCIATIONS, CLUB OWNER, AND CLUB MANGER SHALL HAVE NO RESPONSIBILITY FOR MONITORING SUCH WILDLIFE OR NOTIFYING OWNERS OR OTHER PERSONS OF THE PRESENCE OF SUCH WILDLIFE. EACH OWNER AND HIS OR HER GUESTS AND INVITEES ARE RESPONSIBLE FOR THEIR OWN SAFETY.

10.8.6. Owner's Obligation to Indemnify. Each Owner agrees to indemnify and hold harmless Developer, Association, Club Owner, and Club Manager, their officers, partners, agents, employees, affiliates, directors and attorneys (collectively, "Indemnified Parties") against all actions, injury, claims, loss, liability, damages, costs and expenses of any kind or nature whatsoever ("Losses") incurred by or asserted against any of the Indemnified Parties from and after the date hereof, whether direct, indirect, or consequential, as a result of or in any way related to the Common Areas, including, without limitation, use of the lakes and other waterbodies within Baywinds by Owners, and their guests, family members, invitees, or agents, or the interpretation of this Declaration and/or exhibits attached hereto and/or from any act or omission of Developer, Association, Club Owner, or Club Manager or of any of the Indemnified

Parties. Should any Owner bring suit against Developer, Association, Club Owner or Club Manager or any of the Indemnified Parties for any claim or matter and fail to obtain judgment therein against such Indemnified Parties, such Owner shall be liable to such parties for all Losses, costs and expenses incurred by the Indemnified Parties in the defense of such suit, including attorney's fees and paraprofessional fees at trial and upon appeal.

10.9. Rules and Regulations.

10.9.1. Generally. Prior to the Turnover Date, the Developer, and thereafter Association, shall have the right to adopt Rules and Regulations governing the use of the Common Areas. The Rules and Regulations need not be recorded in the Public Records. The Common Areas shall be used in accordance with this Declaration and Rules and Regulations promulgated relating thereto.

10.9.2. Developer Not Subject to Rules and Regulations. The Rules and Regulations shall not apply to the Developer and/or Builder or to any property owned by Developer and/or Builder, and shall not be applied in a manner which would prohibit or restrict the development or operation of the Club or adversely affect the interests of the Developer. Without limiting the foregoing, Developer, and/or its designees or assigns, shall have the right to: (i) develop and construct commercial and industrial uses, Homes, Common Areas and the Club and related improvements within Baywinds, and make any additions, alterations, improvements, or changes thereto; (ii) maintain sales offices (for the sale and re-sale of (a) Homes and (b) residences and properties located outside of Baywinds); general office and construction operations within Baywinds; (iii) place, erect or construct portable, temporary or accessory buildings or structure within Baywinds for sales, construction storage or other purposes; (iv) temporarily deposit, dump or accumulate materials, trash and rubbish in connection with the development or construction of any portion of Baywinds; (v) post, display, inscribe or affix to the exterior of any portion of the Common Areas or portions of Baywinds owned by Developer, signs and other materials used in developing, constructing, selling or promoting the sale of any portion Baywinds including, without limitation, Parcels and Homes; (vi) excavate fill from any lakes or waterways within and/or contiguous to Baywinds by dredge or dragline, store fill within Baywinds and remove and/or sell excess fill; and grow or store plants and trees within, or contiguous to, Baywinds and use and/or sell excess plants and trees; and (vii) undertake all activities which, in the sole opinion of Developer, are necessary for the development and sale of any lands and improvements comprising Baywinds.

10.10. Public Facilities. Baywinds may include one or more facilities which may be open and available for the use of the general public. By way of example, there may be a public park, fire station, police station, or other facility within the boundaries of Baywinds.

10.11. Default by Another Owner. No default by any Owner in the performance of the covenants and promises contained in this Declaration or by any person using the Common Areas or any other act of omission by any of them shall be construed or considered (a) a breach by Developer or Association or a non-defaulting Owner or other person or entity of any of their promises or covenants in this Declaration; or (b) an actual, implied or construction dispossession of another Owner from the Common Areas; or (c) an excuse, justification, waiver or indulgence of the covenants and promises contained in this Declaration.

10.12. Special Taxing Districts. For as long as Developer controls Association, Developer shall have the right, but not the obligation, to dedicate or transfer or cause the dedication or transfer of all or portions of the Common Areas of Association to a public agency or authority under such terms as Developer deems appropriate in order to create or contract with special taxing districts (or others) for lighting, roads, landscaping, irrigation areas, lakes, waterways, ponds, surface water management systems, wetlands mitigation areas, parks, recreational or other services, security or communications, or other similar purposes deemed appropriate by Developer, including without limitation, the maintenance and/or operation of any of the foregoing. As hereinafter provided, Developer may sign any taxing district petition as attorney-in-fact for each Owner. Each Owner's obligation to pay taxes associated with such district shall be in addition to such Owner's obligation to pay Assessments. Any special taxing district shall be created pursuant to all applicable ordinances of Palm Beach County and all other applicable governing entities having jurisdiction with respect to the same.

10.13. Water Mains. In the event Palm Beach County or any of its subdivisions, agencies, and/or divisions must remove any portion of a Home driveway which is constructed of pavers within any portion of the Common Areas, then Association will be responsible to replace or repair the driveway at Association's expense.

10.14. Association's Obligation to Indemnify. Association and Owners each covenant and agree jointly and severally to indemnify, defend and hold harmless Developer, its officers, directors, shareholders, and any related persons or corporations and its employees from and against any and all claims, suits, actions, causes of action or damages arising from any personal injury, loss of life, or damage to property, sustained on or about the Common Areas, or other property serving Association, and improvements thereon, or resulting from or arising out of activities or operations of Association or Owners, and from and against all costs, expenses, court costs, attorneys' fees and paraprofessional fees (including, but not limited to, all trial and appellate levels and whether or not suit be instituted), expenses and liabilities incurred or arising from any such claim, the investigation thereof, or the defense of any action or proceedings brought thereon, and from and against any orders judgments or decrees which may be entered relating thereto. The costs and expense of fulfilling this covenant of indemnification shall be Operating Costs to the extent such matters are not covered by insurance maintained by Association.

10.15. Site Plans and Plats. Baywinds may be subject to one or more plats (each individually, a "Plat"). The Plat may identify some of the Common Areas within Baywinds. The description of the Common Areas on a Plat is subject to change and the notes on a Plat are not a guarantee of what facilities will be constructed on such Common Areas. Site plans used by Developer in its marketing efforts illustrate the types of facilities which may be constructed on the Common Areas, but such site plans are not a guarantee of what facilities will actually be constructed. Each Owner should not rely on a Plat or any site plans used for illustration purposes as the Declaration governs the rights and obligations of Developer and Owners with respect to the Common Areas.

11. Maintenance by Association.

11.1. Common Areas. Except as otherwise specifically provided in this Declaration to the contrary, Association shall at all times maintain, repair, replace and insure the Common Areas, including all improvements placed thereon.

11.2. Lawn Maintenance. Each Neighborhood Declaration shall set forth the lawn maintenance of the applicable Neighborhood Association for each Neighborhood.

11.3. Surface Water Management System.

11.3.1. Duty to Maintain. Association acknowledges that the Surface Water Management System within the Common Areas is owned by Association. The duty of maintenance of the Common Areas expressly includes the duty to operate, maintain, and repair the Surface Water Management System including, without limitation any signage required by the Environmental Resource Permit, in a manner which complies with the Environmental Resource Permit and the conservation easement. The costs of the operation and maintenance of the Surface Water Management System is part of the Operating Costs of Association and each Owner shall pay Assessments which shall include a pro rata share of such costs. The Association will take any action against Owners as necessary to enforce the conditions of the conservation easement and the Environmental Resource Permit, including, without limitation, any monitoring required by the Environmental Resource Permit. If any element of the Surface Water Management System lies outside the boundaries of Baywinds, but Association is required to operate or maintain such element under the terms of the Environmental Resource Permit, Association will have the power and obligation to operate and maintain such element in accordance with the terms of this Section and the Environmental Resource Permit so long as the owner of the land which includes such element pays to Association all of its costs for such operation and maintenance.

11.3.2. Amendments to Association Documents. Association shall submit to SFWMD any proposed amendment to the Association Documents which will affect the Surface Water Management System, including any environmental conservation area and the water management portions of the Common Areas. SFWMD shall then inform Association as to whether the amendment requires a modification of the Environmental Resource Permit. If a

modification of the Environmental Resource Permit is necessary, SFWMD shall so advise Association. Once Association receives the modification to the Environmental Resource Permit and any conditions to the Environmental Resource Permit, both shall be attached as an exhibit to an amendment to this Declaration, which amendment shall not require the approval of the Owners. Association shall maintain copies of all water management permits and correspondence respecting such permits for the benefit of the Association.

11.3.3. Wetland Mitigation Areas. Parcels may contain or be adjacent to mitigation or wetland preservation areas and upland buffers, which are protected by a conservation easement. These areas may not be altered from their natural, permitted condition with the exception of: exotic or nuisance vegetation removal, or restoration in accordance with the restoration plan included in the conservation easement. Exotic vegetation may include, but is not limited to, melaleuca, Brazilian pepper, Australian pine, and Japanese climbing fern. Nuisance vegetation may include cattails, primrose willow and grape vine.

11.3.4. Use Restrictions for Conservation Areas. Association acknowledges and shall enforce the use restrictions placed on the conservation easement. The conservation areas are hereby dedicated as Common Areas; they shall be the perpetual responsibility of Association and may in no way be altered from their natural or permitted state. These use restrictions are defined on the Environmental Resource Permit, the recorded conservation easement and the plats associated with Baywinds. Activities prohibited within the conservation areas include, but are not limited to, the following:

a. Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;

b. Dumping or placing of soil or other substances or material as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials;

c. Removal or destruction of trees, shrubs or other vegetation; with exception of nuisance and exotic plant species as may be required by Developer.

d. Excavation, dredging, or removal of loam, peat, gravel, soil, rock or other material substance in such manner as to affect the surface;

e. Surface use except for purposes that permit the land or water area to remain predominately in its natural condition;

f. Activities detrimental to drainage, flood control, water conservation, erosion control, or fish and wildlife habitat preservation or conservation;

g. Acts or uses detrimental to such aforementioned retention and maintenance of land or water areas; and

h. Acts or uses detrimental to the preservation of any features or aspects of the property having historical, archeological or cultural significance.

11.3.5. Wetland Mitigation Monitoring. The Association understands that the mitigation monitoring will be required as a condition of the Environmental Resource Permit and that upon transfer of the Environmental Resource Permit from construction phase to operation phase that the operational entity will be responsible to carry out this obligation. In the event that Association is the operational entity, Association fully understands that it is the Association's responsibility to complete all the conditions associated with mitigation monitoring and maintenance successfully. Maintenance of the mitigation area (nuisance removal) shall be performed in perpetuity.

11.4. Northern Palm Beach County Improvement District.

11.4.1. Derivation of NPBCID. NPBCID is a political subdivision of the State of Florida and is responsible for implementing and maintaining certain public benefits and improvements to those parcels of real properties located within Baywinds which lie within NPBCID's units of development and any additional units of development legally established of which Baywinds is a part.

11.4.2. Non-ad Valorem Assessments. All Owners owning or purchasing Parcels or Homes within those areas of Baywinds lying within NPBCID's Units of Development 5 and 5 B and any additional units of development legally established of which Baywinds is a part will be obligated and responsible for paying such non-ad valorem assessments that have or may be assessed and levied annually by NPBCID upon the Parcels or Homes. These non-ad valorem assessments will appear on each Owner's annual Unified Real Property Tax Bill that is issued and collected by the Tax Collector of Palm Beach County, Florida.

11.4.3. Maintenance of NPBCID Improvements. NPBCID will construct improvements within Baywinds. The NPBCID constructed improvements for which NPBCID retains ownership shall be maintained by NPBCID unless the Association contracts with NPBCID for the Association to maintain all or part of such improvements. In the event NPBCID maintains such improvements all individuals or entities owning or purchasing Parcels or Homes, within Baywinds will pay for such maintenance expenses through their non-ad valorem assessments. In the event the Association contracts to maintain such NPBCID improvements, then such maintenance expenses will be paid by the Owner's through their assessments due to the Association or through their non-ad valorem assessments.

11.4.4. Surface Water Management Systems and Other NPBCID Facilities. Baywinds is subject to the conceptual surface water management plan for Baywinds which has been or will be approved by the SFWMD. The Surface Water Management System for Baywinds is authorized pursuant to SFWMD Permit No. 50-03926-P, a copy of the initial conceptual permit (which may be modified from time to time) is attached hereto as Exhibit 5. Land has been or will be dedicated to NPBCID for storm water drainage and buffers as required under said conceptual surface water management plan and for other NPBCID facilities. The Surface Water Management System facilities constructed by NPBCID and other NPBCID facilities shall be maintained by NPBCID unless the Association contracts with NPBCID for the Association to maintain such NPBCID facilities. The Surface Water Management System shall be maintained in compliance with the rules and regulations promulgated by the SFWMD and NPBCID. The Surface Water Management System plans shall cover surface water drainage throughout Baywinds, including but not limited to regular and storm drainage on dedicated streets and other rights of way, lake drainage, and such other requirements as may be imposed by the SFWMD and NPBCID. In the event that the Association contracts with NPBCID for the maintenance of the Surface Water Management System facilities constructed by NPBCID, then the Association: (a) shall apply for and obtain such permits and licenses as may be required by the SFWMD for Baywinds, (b) at the Association's expense, provide the Developer and SFWMD and/or NPBCID with any and all plans and specifications, surveys, descriptive maps, and other documentation required for the maintenance of surface water as contemplated by this Section and shall give and grant to the Developer, owners of land adjacent to Baywinds, Palm Beach County, SFWMD, and NPBCID, any and all easements and rights of way required to effect real property surface water management, and (c) after the original development by NPBCID and Developer, Association shall cause all physical earth moving, landscaping, sloping, grading and other work required to be done on Baywinds, in connection with the maintenance of the Surface Water Management System to be done at the cost and expense of the Association unless such obligation is assumed by any Neighborhood Association. If the apportionment of such work between the Association and the Neighborhood Association, as applicable, cannot be agreed to by the parties involved, such apportionment shall be determined by arbitration as defined in the Florida Arbitration Code (Florida Statutes 1997, Chapter 682), but may be collected through the non-ad valorem assessments. This portion of this Section shall be deemed an arbitration agreement as defined in Section 682.02 of the Florida Statutes. The Association shall have no authority to reconfigure or modify any Surface Water Management System titled or dedicated to NPBCID except with the prior written permit and consent issued by NPBCID.

11.4.5. No Easements Over NPBCID Land. No easements upon, over, under or across any water body, drainage system or tract of land dedicated to, owned by, or subject to an easement in favor of NPBCID shall be permitted, rather the party desiring such easement rights shall apply for and obtain permits from NPBCID for any such rights.

11.4.6. NPBCID Land Not Subject to Assessments. Notwithstanding anything to the contrary, herein, NPBCID and all of NPBCID's interest in land within Baywinds shall be exempt from all annual assessments, special assessments, extraordinary special assessments and fines that may be levied by the Association, or any Neighborhood Association. The Association and the Neighborhood Associations are prohibited from filing or attempting to execute upon any claim or lien as to a property interest owned by NPBCID within Baywinds and any such recording in the public records shall be deemed null and void ab initio.

11.4.7. Lakes, Ponds, Retention Areas and Water Bodies. No swimming, operation of any boats or other recreational uses shall be permitted in or on any of the lakes, ponds, retention areas or other water bodies which are dedicated or deeded to NPBCID or over with which NPBCID has an easement, unless permitted in writing by NPBCID. No removal of water nor discharge of any materials or water, nor removal or interference with aquatic vegetation or alteration of banks or shoreline of any lake, pond, canal or retention area dedicated or deeded to NPBCID or to which NPBCID has an easement is permitted, unless approved in writing by NPBCID. The lake levels are subject to fluctuation based on, among other things, the amount of rainfall occurring over time.

11.4.8. NPBCID Approval Rights to Amendments. No amendment of this Declaration which would affect NPBCID's property interest or improvements located within Baywinds, shall occur unless agreed to in writing by NPBCID.

11.4.9. NPBCID Phone Number and Address. As of the date of recording of this Declaration, the phone number and address for NPBCID is: (561) 624-7830; 357 Hiatt Drive, Palm Beach Gardens, Florida 33418-7106.

11.5. Adjoining Areas. Association shall also maintain those drainage areas, swales, lakes maintenance easements, and landscape areas that are within the Common Areas, provided that such areas are readily accessible to Association. Under no circumstances shall Association be responsible for maintaining any areas within fences or walls that form a part of a Home.

11.6. Negligence. The expense of any maintenance, repair or construction of any portion of the Common Areas necessitated by the negligent or willful acts of an Owner, Neighborhood Associations, or persons utilizing the Common Areas, through or under an Owner or Neighborhood Association, shall be borne solely by such Owner or Neighborhood Associations and the Home and/or Parcel owned by that Owner shall be subject to an Individual Assessment for that expense. By way of example, and not of limitation, an Owner shall be responsible for the removal of all landscaping and structures placed within easements or Common Areas without the prior written approval of Association.

11.7. Right of Entry. Developer, Club Owner, and Association are granted a perpetual and irrevocable easement over, under and across Baywinds for the purposes herein expressed, including, without limitation, for inspections to ascertain compliance with the provisions of this Declaration, and for the performance of any maintenance, alteration or repair which it is entitled to perform. Without limiting the foregoing, Developer specifically reserves easements for all purposes necessary to comply with any governmental requirement or to satisfy any condition that is a prerequisite for a governmental approval. By way of example, and not of limitation, Developer may construct, maintain, repair, alter, replace and/or remove improvements; install landscaping; install utilities; and/or remove structures on any portion of Baywinds if Developer is required to do so in order to obtain the release of any bond posted with any governmental agency).

11.8. Maintenance of Property Owned by Others. Association shall, if designated by Developer (or by Association after the Community Completion Date) by amendment to this Declaration or any document of record, including without limitation declaration(s) of condominium maintain vegetation, landscaping, sprinkler system, community identification/features and/or other areas or elements designated by Developer (or by Association after the Community Completion Date) upon areas which are within or outside of Baywinds. Such areas may abut, or be proximate to, Baywinds, and may be owned by, or dedicated to, others including, but not limited to, a utility, governmental or quasi-governmental entity or a Condominium Association. These areas may include (for example and not limitation) swale areas, landscape buffer areas, berm areas or median areas within the right-of-way of public streets.

roads, drainage areas, community identification or entrance features, community signage or other identification and/or areas within canal rights-of-ways or other abutting waterways.

12. Use Restrictions.

12.1. Disputes as to Use. If there is any dispute as to whether the use of any portion of Baywinds complies with this Declaration, such dispute shall, prior to the Community Completion Date, be decided by Developer, and thereafter by Association. A determination rendered by such party with respect to such dispute shall be final and binding on all persons concerned.

12.2. Use of Homes. Each Home is restricted to residential use as a residence by the Owner or permitted occupant thereof, its immediate family, guests, tenants and invitees.

12.3. Leases. Homes may be leased, licensed or occupied only in their entirety and no fraction or portion may be rented. No bed and breakfast facility may be operated out of a Home. Individual rooms of a Home may not be leased on any basis. No transient tenants may be accommodated in a Home. All leases or occupancy agreements shall be in writing and a copy of all leases of Homes not comprising part of an Apartment Building shall be provided to Association if so requested by Association. Leases of Homes forming part of an Apartment Building shall not be submitted to the Association unless Association reasonably requests a copy of the same from the Owner of an Apartment Building in connection with the enforcement of this Declaration or the Rules and Regulations. No Home, other than Homes within Apartment Buildings, may be subject to more than two (2) leases in any twelve (12) month period, regardless of the lease term. No time-share or other similar arrangement is permitted. The Owner must make available to the lessee or occupants copies of the Association Documents. No lease term shall be less than thirty (30) days.

12.4. Lawful Use. No unlawful or obnoxious use shall be made of any portion of Baywinds. All laws, zoning ordinances and regulations of all governmental entities having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental entities for maintenance, modification or repair of a portion of Baywinds shall be the same as the responsibility for maintenance and repair of the property concerned.

12.5. Maintenance by Owners. All lawns, landscaping and sprinkler systems and any property, structures, improvements and appurtenances not maintained by Association shall be well maintained and kept in first class, good, safe, clean, neat and attractive condition consistent with the general appearance of Baywinds by the Owner of each Home. Each Owner is specifically responsible for maintaining all grass, landscaping and improvements within any portion of a Home that is fenced.

12.5.1. Common Area Enclosed by a Private Fence. If an Owner has installed a fence or wall, subject to ACC approval, around a Home, or any portion thereof, then such Owner must maintain any portion of the Common Areas that is no longer readily accessible to Association.

12.5.2. Weeds and Refuse. No weeds, underbrush, or other unsightly growth shall be permitted to be grown or remain upon any Home. No refuse or unsightly objects shall be allowed to be placed or suffered to remain upon any Home.

12.6. Driveway Easement. Each Owner shall be responsible to repair, maintain and/or replace the driveway comprising part of a Home, including, but not limited to, any damage caused by Association or by the holder of any easement over which such driveway is constructed. Each Owner, by acceptance of a deed to a Home, shall be deemed to have agreed to indemnify and hold harmless Association and the holder of any such easement, including without limitation, all applicable utility companies and governmental agencies, their agents, servants, employees and elected officials, from and against any and all actions or claims whatsoever arising out of the use of the Common Areas and any easement or the construction and/or maintenance of any driveway in that portion of the Common Areas, easement area, or in a public right-of-way between the boundary of such Owner's Home and the edge of the adjacent paved roadway. Further, each Owner agrees to reimburse the Association any expense incurred in repairing any damage to such driveway in the event that such Owner fails to make the required repairs.

12.7. **Drainage System.** Once a drainage system or drainage facilities are installed by Developer, the maintenance of such system and/or facilities thereafter shall be the responsibility of the Owner of the Home which includes such system and/or facilities. In the event that such system or facilities (whether comprised of swales, pipes, pumps, lake slopes, or other improvements) is adversely affected by landscaping, fences, structures, or additions, the cost to correct, repair, or maintain such drainage system and/or facilities shall be the responsibility of the Owner of each Home containing all or a part of such drainage system and/or facilities. By way of example, and not of limitation, if the Owner of one Home plants a tree (pursuant to ACC approval), and the roots of such tree subsequently affect pipes or other drainage facilities within another Home, the Owner that plants the tree shall be solely responsible for the removal of the roots which adversely affect the adjacent Home. Likewise, if the roots of a tree located within the Common Areas adversely affect an adjacent Home, Association shall be responsible for the removal of the roots and the costs thereof shall be Operating Costs. Association and Developer shall have no responsibility or liability for drainage problems of any type whatsoever.

12.8. **Irrigation.** Due to water quality, irrigation systems may cause staining on Homes, other structures or paved areas. It is each Owner's responsibility to treat and remove any such staining. Association may require from time to time, that Owners adopt systems to prevent stains (e.g., automatic deionization systems). No Owner whose Home adjoins a waterway or lake may utilize the waterway or lake to irrigate unless so provided by Developer as part of original construction, subject to applicable permitting. Association and Club Owner may use waterways and lakes to irrigate Common Areas and/or the Club, as applicable subject to applicable permitting. BY ACCEPTANCE OF A DEED TO A HOME OR PARCEL, EACH OWNER ACKNOWLEDGES THAT THE WATER LEVELS OF ALL LAKES AND WATERBODIES MAY VARY. THERE IS NO GUARANTEE BY DEVELOPER OR ASSOCIATION THAT WATER LEVELS WILL BE CONSTANT OR AESTHETICALLY PLEASING AT ANY PARTICULAR TIME. Developer, Association, and Club Owner, shall have the right to use one or more pumps to remove water from lakes and waterbodies for irrigation purposes at all times, subject to applicable permitting. Developer may utilize a computerized loop system to irrigate the Common Areas and/or Homes. Any computerized loop irrigation system that is not specifically the maintenance obligation of a Neighborhood Association, shall be the maintenance obligation of Association and shall be deemed part of the Common Areas.

12.9. **Boundaries of Maintenance.** All lawn maintenance shall be the responsibility of the Neighborhood Association or the individual Owners as and to the extent provided in the Neighborhood Declaration and as determined by the applicable Neighborhood Association respecting each Neighborhood.

12.10. **Subdivision and Regulation of Land.** No portion of any Home or Parcel shall be divided or subdivided or its boundaries changed without the prior written approval of Association. No Owner shall inaugurate or implement any variation from, modification to, or amendment of governmental regulations, land use plans, land development regulations, zoning, or any other development orders or development permits applicable to Baywinds, without the prior written approval of Developer, which may be granted or deemed in its sole discretion.

12.11. **Alterations and Additions.** No material alteration, addition or modification to a Parcel or Home, or material change in the appearance thereof, shall be made without the prior written approval thereof being first had and obtained from the ACC as required by this Declaration.

12.12. **Signs.** No sign (including brokerage or for sale/lease signs), flag, banner, sculpture, fountain, outdoor play equipment, solar equipment, artificial vegetation, sports equipment, advertisement, notice or other lettering shall be exhibited, displayed, inscribed, painted or affixed in, or upon any part of a Parcel or Home that is visible from the outside without the prior written approval thereof being first had and obtained from the ACC as required by this Declaration.

12.13. **Roofs and Pressure Treatment.** Roofs and/or exterior surfaces and/or pavement, including, but not limited to, walks and drives, shall be pressure treated within thirty (30) days of notice by the ACC.

12.14. **Paint.** Homes shall be repainted within forty-five (45) days of notice by the ACC.

12.15. Hurricane Shutters. Any hurricane or other protective devices visible from outside a Home shall be of a type as approved by the ACC. Panel, accordion and roll-up style hurricane shutters may not be left closed during hurricane season. Any such approved hurricane shutters may be installed up to forty-eight (48) hours prior to the expected arrival of a hurricane and must be removed within seventy-two (72) hours after the end of a hurricane watch or warning or as the Board may determine otherwise.

12.16. Windows or Wall Units. No window or wall air conditioning unit may be installed in any window or wall of a Home.

12.17. Window Treatments. Window treatments shall consist of drapery, blinds, decorative panels, or other tasteful window covering, and no newspaper, aluminum foil, sheets or other temporary window treatments are permitted.

12.18. Satellite Dishes and Antennae. No exterior visible antennae, radio masts, towers, poles, aerials, satellite dishes, or other similar equipment shall be placed on any Home or Parcel without the prior written approval thereof being first had and obtained from the ACC as required by this Declaration. The ACC may require, among other things, that all such improvements be screened so that they are not visible from adjacent Homes, or from the Common Areas. No Owner shall operate any equipment or device which will interfere with the radio or television reception of others. Notwithstanding the foregoing, Club Owner may install Telecommunications Services equipment, a satellite dish or similar equipment within the property comprising the Club so long as such equipment is not visible from the street giving access to the Club without ACC approval.

12.19. Pools. No above-ground pools shall be permitted. All in-ground pools, hot tubs, spas and appurtenances installed shall require the approval of the ACC as set forth in this Declaration. All pools shall be adequately maintained and chlorinated. Unless installed by Developer, no diving boards, slides, or platforms shall be permitted without ACC approval.

12.20. Visibility on Corners. Notwithstanding anything to the contrary in these restrictions, no obstruction to visibility at street intersections shall be permitted and such visibility clearances shall be maintained as required by the ACC and governmental agencies.

12.21. Holiday Lights and Other Lighting. Except for seasonal holiday lights, all exterior lighting shall require the approval of the ACC as set forth in this Declaration. The ACC may establish standards for holiday lights. The ACC may require the removal of any lighting that creates a nuisance (e.g., unacceptable spillover to adjacent Home).

12.22. Removal of Soil and Additional Landscaping. Without the prior consent of the ACC, no Owner shall remove soil from any portion of Baywinds, change the level of the land within Baywinds, or plant landscaping which results in any permanent change in the flow and drainage of surface water within Baywinds. Owners may place additional plants, shrubs, or trees within any portion of Baywinds with the prior approval of the ACC.

12.23. Casualty Destruction to Improvements. In the event that a Home or other improvement is damaged or destroyed by casualty loss or other loss, then within a reasonable period of time after such incident, the Owner thereof shall either commence to rebuild or repair the damaged Home or improvement and diligently continue such rebuilding or repairing until completion, or properly clear the damaged Home or improvement and restore or repair the Home as approved by the ACC and set forth in Section 14.5.2 herein. As to any such reconstruction of a destroyed Home or improvements, the same shall only be replaced as approved by the ACC.

12.24. Animals. No animals of any kind shall be raised, bred or kept within Baywinds for commercial purposes. Otherwise, Owners may keep domestic pets as permitted by Palm Beach County ordinances up to a limit of two (2) such pets and otherwise in accordance with the Rules and Regulations established by the Board from time to time. Notwithstanding the foregoing, pets may be kept or harbored in a Home only so long as such pets or animals do not constitute a nuisance. A determination by the Board that an animal or pet kept or harbored in a Home is a nuisance

shall be conclusive and binding on all parties. All pets shall be walked on a leash. No pet shall be permitted outside a Home unless such pet is kept on a leash or within a fenced yard of a Home. No pet or animal shall be "tied out" on the exterior of the Home or in the Common Areas, or left unattended in a yard or on a balcony, porch, or patio. No dog runs or enclosures shall be permitted on any Home. When notice of removal of any pet is given by the Board, the pet shall be removed within forty-eight (48) hours of the giving of the notice. All pets shall defecate only in the "pet walking" areas within Baywinds designated for such purpose, if any, or on that Owner's Home. The person walking the pet or the Owner shall clean up all matter created by the pet. Each Owner shall be responsible for the activities of its pet. Notwithstanding anything to the contrary, seeing eye dogs shall not be governed by the restrictions contained in this Section.

12.25. Nuisances. No nuisance or any use or practice that is the source of unreasonable annoyance to others or which interferes with the peaceful possession and proper use of Baywinds is permitted. No firearms shall be discharged within Baywinds. Nothing shall be done or kept within the Common Areas, or any other portion of Baywinds, including a Home or Parcel which will increase the rate of insurance to be paid by Association.

12.26. Minor's Use of Facilities. Persons who are not sixteen (16) years of age or older shall not be permitted to use the Common Areas unless under the supervision of an adult Owner or lawful occupant over the age of eighteen (18) years, except in such cases and under such conditions as Association may from time to time establish and require. Parents shall be responsible for all actions of their minor children at all times in and about Baywinds. Developer and Club Owner shall not be responsible for any use of the facilities by anyone, including minors.

12.27. Personal Property. All personal property of Owners or other occupants of Homes shall be stored within the Homes. No personal property, except usual patio furniture, may be stored on, nor any use made of, the Common Areas, any Parcel or Home, or any other portion of Baywinds, which is unsightly or which interferes with the comfort and convenience of others.

12.28. Storage. No temporary or permanent utility or storage shed, storage building, tent, or other structure or improvement shall be permitted and no other structure or improvement shall be constructed, erected, altered, modified or maintained without the prior approval of the ACC, which approval shall conform to the requirements of this Declaration.

12.29. Garbage Cans. Trash collection and disposal procedures established by Association shall be observed. No outside burning of trash or garbage is permitted. No garbage cans, supplies or other similar articles shall be maintained on any Home so as to be visible from outside the Home or Parcel.

12.30. Laundry. Subject to the provisions of Section 163.04 of the Florida Statutes, to the extent applicable, no rugs, mops, or laundry of any kind, or any other similar type article, shall be shaken, hung or exposed so as to be visible outside the Home or Parcel.

12.31. Control of Contractors. Except for direct services which may be offered to Owners (and then only according to the Rules and Regulations relating thereto as adopted from time to time), no person other than an Association officer shall direct, supervise, or in any manner attempt to assert any control over any contractor of Association.

12.32. Servants. Servants and domestic help of any Owner may not gather or lounge in or about the Common Areas.

12.33. Parking. Owners' automobiles shall be parked in the garage or driveway. No vehicle which cannot operate on its own power shall remain on Baywinds for more than twelve hours, except in the garage of a Home. No repair, except emergency repair, of vehicles shall be made within Baywinds, except in the garage of a Home. No commercial vehicle, recreational vehicle, boat, trailer, including but not limited to boat trailers, house trailers, and trailers of every other type, kind or description, or camper, may be kept with Baywinds except in the garage of a Home. The term commercial vehicle shall not be deemed to include recreational or utility vehicles (i.e. Broncos, Blazers,

Explorers, etc.) up to 21'5" in length or clean "non-working" vehicles such as pick-up trucks, vans, or cars if they are used by the Owner on a daily basis for normal transportation. Notwithstanding any other provision in this Declaration to the contrary, the foregoing provisions shall not apply to construction vehicles in connection with the construction, improvement, installation, or repair by Developer or Builders of Homes, Club facilities, Common Areas, or any other Baywinds facility.

12.34. Cooking. No cooking shall be permitted nor shall any goods or beverages be consumed on the Common Areas except in areas designated for those purposes by Association. The ACC shall have the right to prohibit or restrict the use of grills or barbeque facilities throughout Baywinds.

12.35. Substances. No inflammable, combustible or explosive fuel, fluid, chemical, hazardous waste, or substance shall be kept on any portion of Baywinds or within any Home or Parcel, except those which are required for normal household use.

12.36. Extended Vacation and Absences. In the event a Home will be unoccupied for an extended period, the Home must be prepared prior to departure by: (i) notifying Association; (ii) removing all removable furniture, plants and other objects from outside the Home; and (iii) designating a responsible firm or individual to care for the Home, should the Home suffer damage or require attention, and providing a key to that firm or individual. The name of the designee shall be furnished to Association. Association shall have no responsibility of any nature relating to any unoccupied Home.

12.37. Commercial Activity. Except for normal construction activity, sale, and re-sale of a Home, sale or re-sale of other property owned by Developer, administrative offices of Developer or Builders and operation of the Club, no commercial or business activity shall be conducted in any Home within Baywinds. Notwithstanding the foregoing, and subject to applicable statutes and ordinances, an Owner may maintain a home business office within a Home for such Owner's personal use; provided, however, business invitees, customers, and clients shall not be permitted to meet with Owners in Homes unless the Board provides otherwise in the Rules and Regulations. No Owner may actively engage in any solicitations for commercial purposes within Baywinds. No solicitors of a commercial nature shall be allowed within Baywinds, without the prior written consent of Association. No garage sales are permitted, except as permitted by the Association. No day care center or facility may be operated out of a Home. Prior to the Community Completion Date, Association shall not permit any garage sales without the prior written consent of Developer.

12.38. Completion and Sale of Units. No person or entity shall interfere with the completion and sale of Homes within Baywinds.

12.39. Artificial Vegetation. No artificial grass, plants or other artificial vegetation, or rocks or other landscape devices, shall be placed or maintained upon the exterior portion of any Home or Parcel, unless approved by the ACC.

12.40. Decorations. No decorative objects including, but not limited to, birdbaths, light fixtures, sculptures, statues, weather vanes, or flagpoles shall be installed or placed within or upon any portion of Baywinds without the prior written approval of the ACC.

12.41. Sports Equipment. No recreational, playground or sports equipment shall be installed or placed within or about any portion of Baywinds without prior written consent of the ACC.

12.42. Fencing. No walls or fences shall be erected or installed without prior written consent of the ACC. No chain link fencing of any kind shall be allowed.

12.43. Wetlands and Mitigation Areas. It is anticipated that the Common Areas shall include one or more preserves, wetlands, and/or mitigation areas. No Owner or other person shall take any action or enter onto such areas so as to adversely affect the same. Such areas are to be maintained by Association in their natural state.

13. **Easement for Unintentional and Non-Negligent Encroachments.** If any other building or improvement on a Home shall encroach upon another Home by reason of original construction by Developer, then an easement for such encroachment shall exist so long as the encroachment exists. It is contemplated that each Home shall contain an improvement with exterior walls, footings, and other protrusions which may pass over or underneath an adjacent Home. In addition, the footers and other supporting features for party walls will protrude underneath adjacent Homes. A perpetual nonexclusive easement is herein granted to allow the footers for such walls and other protrusions and to permit any natural water run off from roof overhangs, eaves and other protrusions onto an adjacent Home.

14. **Insurance.** Association shall maintain the following insurance coverages:

14.1. **Flood Insurance.** If the Common Areas are located within an area which has special flood hazards and for which flood insurance has been made available under the National Flood Insurance Program (NFIP), coverage in appropriate amounts, available under NFIP for all buildings and other insurable property within any portion of the Common Areas located within a designated flood hazard area.

14.2. **Liability Insurance.** Commercial general liability insurance coverage providing coverage and limits deemed appropriate such policies must provide that they may not be canceled or substantially modified by any party, without at least thirty (30) days' prior written notice to Developer (until the Community Completion Date), Club Owner and Association.

14.3. **Directors and Officers Liability Insurance.** Each member of the Board shall be covered by directors and officers liability insurance in such amounts and with such provisions as approved by the Board.

14.4. **Other Insurance.** Such other insurance coverages as appropriate from time to time. All coverages obtained by Association shall cover all activities of Association and all properties maintained by Association, whether or not Association owns title thereto.

14.5. **Homes.**

14.5.1. **Requirement to Maintain Insurance.** Each Owner shall be required to obtain and maintain adequate insurance of his or her Home. Such insurance shall be sufficient for necessary repair or reconstruction work, and/or shall cover the costs to demolish a damaged Home as applicable, remove the debris, and to resod and landscape land comprising the Home. Upon the request of Association, each Owner shall be required to supply the Board with evidence of insurance coverage on his Home which complies with the provisions of this Section. Without limiting any other provision of this Declaration or the powers of Association, Association shall specifically have the right to bring an action to require an Owner to comply with his or her obligations hereunder.

14.5.2. **Requirement to Reconstruct or Demolish.** In the event that any Home is destroyed by fire or other casualty, the Owner of such Home shall do one of the following: the Owner shall commence reconstruction and/or repair of the Home ("Required Repair"), or Owner shall tear the Home down, remove all the debris, and resod and landscape the property comprising the Home as required by the ACC ("Required Demolition"). If an Owner elects to perform the Required Repair, such work must be commenced within thirty (30) days of the Owner's receipt of the insurance proceeds respecting such Home. If an Owner elects to perform the Required Demolition, the Required Demolition must be completed within six (6) months from the date of the casualty or such longer period of time established by the Board in its sole and absolute discretion. If an Owner elects to perform the Required Repair, such reconstruction and/or repair must be continued in a continuous, diligent, and timely manner. Association shall have the right to inspect the progress of all reconstruction and/or repair work. Without limiting any other provision of this Declaration or the powers of Association, Association shall have a right to bring an action against an Owner who fails to comply with the foregoing requirements. By way of example, Association may bring an action against an Owner who fails to either perform the Required Repair or Required Demolition on his or her Home within the time periods and in the manner provided herein. Each Owner acknowledges that the issuance of a building permit or a demolition permit in no way shall be deemed to satisfy the requirements set forth herein, which are independent of, and in addition to, any

requirements for completion of work or progress requirements set forth in applicable statutes, zoning codes, and/or building codes.

14.5.3. Standard of Work. The standard for all demolition, reconstruction, and other work performed as required by this Section 14.5 shall be in accordance with the Community Standards and any other standards established by Association with respect to any casualty that affects all or a portion of Baywinds.

14.5.4. Additional Rights of Association. If an Owner refuses or fails, for any reason, to perform the Required Repair or Required Demolition as herein provided, then Association, in its sole and absolute discretion, by and through its Board is hereby irrevocably authorized by such Owner to perform the Required Repair or Required Demolition. All Required Repair performed by Association pursuant to this Section shall be in conformance with the original plans and specifications for the Home. Association shall have the absolute right to perform the Required Demolition to a Home pursuant to this Section if any contractor certifies in writing to Association that such Home cannot be rebuilt or repaired. The Board may levy an Individual Assessment against the Owner in whatever amount sufficient to adequately pay for Required Repair or Required Demolition performed by Association.

14.5.5. Association Has No Liability. Notwithstanding anything to the contrary in this Section, Association, its directors and officers, shall not be liable to any Owner should an Owner fail for any reason whatsoever to obtain insurance coverage on a Home. Moreover, Association, its directors and officers, shall not be liable to any person if Association does not enforce the rights given to Association's this Section.

14.6. Fidelity Bonds. If available, a blanket fidelity bond for all officers, directors, trustees and employees of Association, and all other persons handling or responsible for funds of, or administered by, Association. In the event Association delegates some or all of the responsibility for the handling of the funds to a professional management company or licensed manager, such bonds shall be required for its officers, employees and agents, handling or responsible for funds of, or administered on behalf of Association. The amount of the fidelity bond shall be based upon reasonable business judgment. The fidelity bonds required herein must meet the following requirements (to the extent available at a reasonable premium):

14.6.1. The bonds shall name Association as an obligee.

14.6.2. The bonds shall contain waivers, by the issuers of the bonds, of all defenses based upon the exclusion of persons serving without compensation from the definition of "employee" or similar terms or expressions.

14.6.3. The premiums on the bonds (except for premiums on fidelity bonds maintained by a professional management company, or its officers, employees and agents), shall be paid by Association.

14.6.4. The bonds shall provide that they may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least thirty (30) days' prior written notice to Developer (until the Community Completion Date), Club Owner and Association.

14.7. Association as Agent. Association is irrevocably appointed agent for each Owner of any interest relating to the Common Areas to adjust all claims arising under insurance policies purchased by Association and to execute and deliver releases upon the payment of claims.

14.8. Casualty to Common Areas. In the event of damage to the Common Areas, or any portion thereof, Association shall be responsible for reconstruction after casualty. In the event of damage to a Parcel or Home, or any portion thereof, the Owner shall be responsible for reconstruction after casualty. In the event of damage to the Club, the responsibility for reconstruction shall be as provided in the Club Covenants.

14.9. Nature of Reconstruction. Any reconstruction of improvements hereunder shall be substantially in accordance with the plans and specifications of the original improvement, or as the improvement was last constructed, subject to modification to conform with the then current governmental regulation(s).

14.10. Additional Insured. Developer, Club Owner and their respective Lender(s) shall be named as additional insured on all policies obtained by Association, as their interests may appear.

14.11. Cost of Payment of Premiums. The costs of all insurance maintained by Association hereunder, and any other fees or expenses incurred which may be necessary or incidental to carry out the provisions hereof are Operating Costs.

15. Property Rights.

15.1. Owners' Easement of Enjoyment. Every Owner, and its immediate family, tenants, guests and invitees, and every owner of an interest in Baywinds shall have a non-exclusive right and easement of enjoyment in and to those portions of the Common Areas which it is entitled to use for their intended purpose, subject to the following provisions:

15.1.1. Easements, restrictions, reservations, conditions, limitations and declarations of record, now or hereafter existing, and the provisions of this Declaration, as amended.

15.1.2. The right of Association to suspend an Owner's rights hereunder or to impose fines in accordance with Section 617.305, Florida Statutes, as amended from time to time.

15.1.3. The right of Developer and/or Association to dedicate or transfer all or any part of the Common Areas. No such dedication or transfer shall be effective prior to the Community Completion Date without prior written consent of Developer and, at any time, without prior written consent of the Club Owner.

15.1.4. The right of Developer and/or Association to modify the Common Areas as set forth in this Declaration.

15.1.5. The perpetual right of Developer to access and enter the Common Areas at any time, even after the Community Completion Date, for the purposes of inspection and testing of the Common Areas. Association and each Owner shall give Developer unfettered access, ingress and egress to the Common Areas so that Developer and/or its agents can perform all tests and inspections deemed necessary by Developer. Developer shall have the right to make all repairs and replacements deemed necessary by Developer. At no time shall Association and/or an Owner prevent, prohibit and/or interfere with any testing, repair or replacement deemed necessary by Developer relative to any portion of the Common Areas.

15.1.6. The rights of Developer and/or Association and/or Club Owner regarding Baywinds as reserved in this Declaration, including the right to utilize the same and to grant use rights, etc. to others.

15.1.7. Rules and Regulations adopted governing use and enjoyment of the Common Areas.

15.2. Ingress and Egress. An easement for ingress and egress is hereby created for pedestrian traffic over, and through and across sidewalks, paths, walks, driveways, passageways, and lanes as the same, from time to time, may exist upon, or be designed as part of, the Common Areas, and for vehicular traffic over, through and across such portions of the Common Areas as, from time to time, may be paved and intended for such purposes.

15.3. Development Easement. In addition to the rights reserved elsewhere herein, Developer reserves an easement for itself or its nominees and creates an easement in favor of the Club Owner over, upon, across, and under Baywinds as may be required in connection with the development of Baywinds, the Club, and other lands designated by Developer and to promote or otherwise facilitate the development, construction and sale and/or leasing of Parcels

and Homes, the Club, and other lands designated by Developer. Without limiting the foregoing, Developer specifically reserves the right to use all paved roads and rights of way within Baywinds for vehicular and pedestrian ingress and egress to and from construction sites and for the construction and maintenance of any Telecommunications System provided by Developer. Specifically, each Owner acknowledges that construction vehicles and trucks may use portions of the Common Areas. Developer shall have no liability or obligation to repave, restore, or repair any portion of the Common Areas as a result of the use of the same by construction traffic, and all maintenance and repair of such Common Areas shall be deemed ordinary maintenance of the Association payable by all Owners as part of Operating Costs. Without limiting the foregoing, at no time shall Developer be obligated to pay any amount to Association on account of Developer's and Club Owner's use of the Common Areas for construction purposes. Developer intends to use the Common Areas for sales of new and used Homes and for the leasing of Homes within Apartment Buildings. Further, Developer may market other residences and commercial properties located outside of Baywinds from Developer's sales facilities located within Baywinds. Developer has the right to use all portions of the Common Areas in connection with its marketing activities, including, without limitation, allowing members of the general public to inspect model Homes, installing signs and displays, holding promotional parties and picnics, and using the Common Areas for every other type of promotional or sales activity that may be employed in the marketing of new and used residential Homes or the leasing of residential apartments. The easements created by this Section, and the rights reserved herein in favor of Developer, shall be construed as broadly as possible and supplement the rights of Developer set forth in Section 21 of this Declaration. At no time shall Developer incur any expense whatsoever in connection with its use and enjoyment of such rights and easements. Developer may non-exclusively assign its rights hereunder to each Builder.

15.4. Public Easements. Fire, police, school transportation, health, sanitation and other public service and utility company personnel and vehicles shall have a permanent and perpetual easement for ingress and egress over and across the Common Areas. In addition, Telecommunications Providers shall also have the right to use all paved roadways for ingress and egress to and from Telecommunications Systems within Baywinds.

15.5. Delegation of Use. Every Owner shall be deemed to have delegated its right of enjoyment to the Common Areas and Club to occupants or lessees of that Owner's Home subject to the provisions of this Declaration and the Rules and Regulations, as may be promulgated, from time to time. Any such delegation or lease shall not relieve any Owner from its responsibilities and obligations provided herein.

15.6. Easement for Encroachments. In the event that any improvement upon Common Areas, as originally constructed, shall encroach upon any other property or improvements thereon, or for any reason, then an easement appurtenant to the encroachment shall exist for so long as the encroachment shall naturally exist.

15.7. Permits, Licenses and Easements. Prior to the Community Completion Date, Developer, and thereafter Association, shall, in addition to the specific rights reserved to Developer herein, have the right to grant, modify, amend and terminate permits, licenses and easements over, upon, across, under and through Baywinds (including Parcels and/or Homes) for Telecommunication Systems, utilities, roads and other purposes reasonably necessary or useful as it determines, in its sole discretion. To the extent legally required, each Owner shall be deemed to have granted to Developer and, thereafter, Association an irrevocable power of attorney, coupled with an interest, for the purposes herein expressed.

15.8. Support Easement and Maintenance Easement. An easement is hereby created for the existence and maintenance of supporting structures (and the replacement thereof) in favor of the entity required to maintain the same. An easement is hereby created for maintenance purposes (including access to perform such maintenance) over and across Baywinds (including Parcels, Homes and the Club) for the reasonable and necessary maintenance of Common Areas, Club, utilities, cables, wires and other similar facilities.

15.9. Drainage. A non-exclusive easement shall exist in favor of Developer, Club Owner, Association, and their designees, and any applicable water management district, state agency, county agency and/or federal agency having jurisdiction over Baywinds over, across and upon Baywinds for drainage, irrigation and water management purposes. An easement or ingress, egress and access shall exist for such parties to enter upon and over any portion of

Baywinds (including Parcels and Homes) in order to construct, maintain, inspect, record data on, monitor, test, or repair, as necessary, any water management areas, irrigation systems and facilities thereon and appurtenances thereto. No structure, landscaping, or other material shall be placed or be permitted to remain which may damage or interfere with the drainage or irrigation of Baywinds and/or installation or maintenance of utilities or which may obstruct or retard these flow of water through Baywinds and/or water management areas and facilities or otherwise interfere with any drainage, irrigation and/or easement provided for in this Section or the use rights set forth elsewhere in this Declaration.

15.10. Club Easements. A non-exclusive easement shall exist in favor of the Club Owner and its respective designees, invitees, guests, agents, employees, and members over and upon the Common Areas and portions of Baywinds necessary for ingress, egress, access to, construction, maintenance and/or repair of the Club. Club Owner, Club employees, agents, invitees, guests, any manager of the Club, and all members of the Club shall be given access to the Club on the same basis as Owners; but without any charge therefor (in the term of Assessments or otherwise).

15.11. Lake and Canal Common Areas. The rear yard of some Homes may border on the lakes and canals forming part of the Common Areas. The Association shall maintain any portion of the Common Areas contiguous to the rear lot line of such Home (but outside the boundary of the Home) which comprise part of the lake slopes and banks and/or canal slopes and banks to prevent or restore erosion of slopes and banks due to drainage or roof culvert outfalls. The Owner of each Home bordering on the lakes and canals shall ensure that lake and canal banks and slopes remain free of any structural or landscape encroachments so as to permit vehicular access for maintenance when needed. Each Owner hereby grants Association an easement of ingress and egress across his or her Home to all adjacent lake and canal areas for the purpose of insuring compliance with the requirements of this provision. If the lake and canal slopes lie within a Home, then the Owner of such Home shall be responsible for the maintenance of the lake and canal slopes and banks, as set forth in the applicable Neighborhood Declaration. Erosion of slopes and banks is possible due to drainage or roof culvert outfalls and runoff can effect the integrity of the lake or canal bank. An Owner should perform maintenance if the lake bank erodes more than 10" from its original shape. It is recommended that any maintenance to correct such erosion be performed during the months of November through April. Further, each such Owner shall ensure that lake and canal banks and slopes remain free of any structural or landscape encroachments so as to permit vehicular access for maintenance when needed. The Association may establish from time to time additional maintenance standards for the lake and canal maintenance by Owners who own Homes adjacent to Common Area waterbodies (the "Lake Slope Maintenance Standards"). Such standards may include requirements respecting compaction and strengthening of lake banks. Association shall have the right to inspect such lake and canal slopes and banks to insure that each Owner has complied with its obligations hereunder and under the Lake Slope Maintenance Standards. Each Owner hereby grants Association an easement of ingress and egress across his Home to all adjacent lake and canal areas for the purpose of insuring compliance with the requirements of this provision and the Lake Slope Maintenance Standards. For the purposes of this Declaration, each day that an Owner fails to comply with the requirements of this paragraph or any Lake Slope Maintenance Standards shall be deemed a separate and independent violation of this Declaration.

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

16. Club Covenants. Association and each Home Owner, where applicable, shall be bound by and comply with the Club Covenants which are incorporated herein by reference. Although the Club Covenants are an exhibit to this Declaration, the Association Documents are subordinate and inferior to the Club Covenants. In the event of any conflict between the Club Covenants and the Association Documents, the Club Covenants shall control.

17. Assessments.

17.1. Types of Assessments. Each Owner and Builder, by acceptance of a deed or instrument of conveyance for the acquisition of title in any manner (whether or not so expressed in the deed), including any purchaser at a judicial sale, shall hereafter be deemed to have covenanted and agreed to pay to Association at the time and in the manner required by the Board, assessments or charges and any special assessments as are fixed, established and collected from time to time by Association (collectively, the "Assessments"). All Owners shall pay Assessments. Each

Builder shall pay such portion of Operating Costs which benefits any Parcel owned by such Builder, as determined by Developer, in Developer's sole discretion. By way of example, and not of limitation, Developer may require that each Builder pay some portion of Assessments on a Parcel owned by a Builder which does not contain a Home. As vacant Parcels owned by Builders may not receive certain services (e.g., Telecommunications Services), Builders shall not be required to pay for the same.

17.2. **Purpose of Assessments.** The Assessments levied by Association shall be used for, among other things, the improvement and maintenance of the Common Areas and any easement in favor of the Association, including but not limited to the following categories of Assessments as and when levied and deemed payable by the Board:

17.2.1. Any monthly, quarterly, semi-annually, or annually assessment or charge, as the Board may determine, for the purpose of operating the Association and accomplishing any and all of its purposes, as determined in accordance herewith, including, without limitation, payment of Operating Costs and collection of amounts necessary to pay any deficits from prior years' operation (hereinafter "Installment Assessments");

17.2.2. Any special assessments for capital improvements, major repairs, emergencies the repair or replacement of the Surface Water Management System, or nonrecurring expenses (hereinafter "Special Assessments");

17.2.3. Any specific fees, dues or charges to be paid by Owners for any special services provided to or for the benefit of an Owner or Home, for any special or personal use of the Common Areas, or to reimburse Association for the expenses incurred in connection with that service or use (hereinafter "Use Fees"); and

17.2.4. Assessments of any kind for the creation of reasonable reserves for any of the aforesaid purposes. At such time as there are improvements in any Common Areas for which Association has a responsibility to maintain, repair, and replace, the Board may, but shall have no obligation to, include a "Reserve for Replacement" in the Installment Assessments in order to establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements comprising a portion of the Common Area (hereinafter "Reserves"). Assessments pursuant to this Section shall be payable in such manner and at such times as determined by Association, and may be payable in installments extending beyond the fiscal year in which the Reserves are disapproved. Until the Community Completion Date, Reserves shall be subject to the prior written approval of Developer, which may be withheld for any reason.

17.2.5. Assessments for which one or more Owners (but less than all Owners) within Baywinds is subject ("Individual Assessments") such as costs of special services provided to a Home or Owner or cost relating to enforcement of the provisions of this Declaration or the architectural provisions hereof as it relates to a particular Owner or Home. By way of example, and not of limitation, all of the Owners within a Plat may be subject to Individual Assessments for maintenance, repair and/or replacement of facilities serving only the residents of such Plat (e.g., a gatehouse attendant and private gatehouse). Further, in the event an Owner fails to maintain the exterior of his Home (other than those portions of a Home maintained by Association) or a lake or canal slope or bank in a manner satisfactory to Association, Association shall have the right, through its agents and employees, to enter upon the Home and to repair, restore, and maintain the Home as required by this Declaration. The cost thereof, plus the reasonable administrative expenses of Association, shall be an Individual Assessment. As a further example, if one or more Owners receive optional Telecommunications Services such as Toll Calls, Basic Service, and/or Data Transmission Services, and Association pays a Telecommunications Provider for such services, then the cost of such services shall be an Individual Assessment as to each Owner receiving such services. The lien for an Individual Assessment may be foreclosed in the same manner as any other Assessment.

17.3. **Club Charges.** Notwithstanding anything in this Declaration to the contrary, to the extent directed by Club Owner, Association shall collect from the Owners Club Charges in addition to Assessments. In the event that Association shall receive a partial payment in any month of Assessments and Club Charges from a particular Owner, the payment from such Owner shall be first allocated to the payment of Club Fees, then to the payment of Club Operating Costs, and then to the payment of Assessments. Association shall provide the Club Owner each month with

a list of all Owners that did not remit Club Charges to Association for the prior month. Such list shall include the Owner's name, Home description, and the amount not remitted for the prior month, and the total amount of Club Charges not remitted by such Owner to date.

17.4. **Designation.** The designation of Assessment type shall be made by Association. Prior to the Community Completion Date, any such designation must be approved by Developer. Such designation may be made on the budget prepared by Association. The designation shall be binding upon all Owners.

17.5. **Allocation of Operating Costs.**

17.5.1. For the period until the adoption of the first annual budget, the allocation of Operating Costs shall be as set forth in the initial budget prepared by Developer.

17.5.2. Commencing on the first day of the period covered by the annual budget, and until the adoption of the next annual budget, the Installment Assessments shall be allocated so that each Owner shall pay his pro rata portion of Installment Assessments, Special Assessments, and Reserves based upon a fraction, the numerator of which is one (1) and the denominator of which is the total number of Homes in Baywinds conveyed to Owners or any greater number determined by Developer from time to time. Developer, in its sole and absolute discretion may change such denominator from time to time. Under no circumstances will the denominator be less than the number of Homes owned by Owners other than Developer.

17.5.3. In the event the Operating Costs as estimated in the budget for a particular fiscal year are, after the actual Operating Costs for that period is known, less than the actual costs, then the difference shall, at the election of Association: (i) be added to the calculation of Installment Assessments for the next ensuing fiscal year, or (ii) be immediately collected from the Owners as a Special Assessment. Association shall have the unequivocal right to specially assess Owners retroactively on January 1st of any year for any shortfall in Installment Assessments, which Special Assessment shall relate back to the date that the Installment Assessments could have been made. No vote of the Owners shall be required for such Special Assessment (or for any other Assessment) except to the extent specifically provided herein.

17.5.4. Each Owner agrees that so long as it does not pay more than the required amount it shall have no grounds upon which to object to either the method of payment or non-payment by other Owners of any sums due.

17.6. **General Assessments Allocation.** Except as hereinafter specified to the contrary, Installment Assessments, Special Assessments and Reserves shall be allocated equally to each Owner.

17.7. **Use Fees and Individual Assessment.** Except as hereinafter specified to the contrary, Use Fees and Individual Assessments shall be made against the Owners benefiting from, or subject to the special service or cost as specified by Association.

17.8. **Commencement of First Assessment.** Assessments shall commence as to each Owner on the day of the conveyance of title of a Home to an Owner. Notwithstanding the foregoing, each Home in an Apartment Building is subject to Assessments upon the issuance of a final or temporary Certificate of Completion for such Apartment Building. Assessments shall commence as to each Builder on the day of conveyance of title of a Parcel to such Builder.

17.9. **Shortfalls and Surpluses.** Each Owner acknowledges that because Installment Assessments, Special Assessments, and Reserves are allocated based on the formula provided herein, or upon the number of Homes conveyed to Owners on or prior to September 30 of the prior fiscal year, it is possible that Association may collect more or less than the amount budgeted for Operating Costs. Prior to the Turnover Date, Developer shall have the option to (i) fund all or any portion of the shortfall in Installment Assessments not raised by virtue of income receivable by Association or (ii) to pay Installment Assessments on Homes or Parcels owned by Developer. Developer shall never be required to (i) fund shortfalls in Installment Assessments if Developer has elected to fund the deficit instead of paying

Installment Assessments on Homes or Parcels owned by Developer or (ii) pay Special Assessments, management fees or Reserves. Any surplus Assessments collected by Association may be allocated towards the next year's Operating Costs or, in Association's sole and absolute discretion, to the creation of Reserves, whether or not budgeted. Under no circumstances shall Association be required to pay surplus Assessments to Owners.

17.10. Budgets. The initial budget prepared by Developer is adopted as the budget for the period of operation until adoption of the first annual Association Budget. Thereafter, annual budgets shall be prepared and adopted by Association. THE INITIAL BUDGET OF ASSOCIATION IS PROJECTED (NOT BASED ON HISTORICAL OPERATING FIGURES). THEREFORE, IT IS POSSIBLE THAT ACTUAL ASSESSMENTS MAY BE LESSER OR GREATER THAN PROJECTED.

17.11. Establishment of Assessments. Assessments shall be established in accordance with the following procedures:

17.11.1. Installment Assessments shall be established by the adoption of a twelve (12) month operating budget by the Board. The budget shall be in the form required by Section 617.303(6) of the Florida Statutes, as amended from time to time. Written notice of the amount and date of commencement thereof shall be given to each Owner not less than ten (10) days in advance of the due date of the first installment thereof. Notwithstanding the foregoing, the budget may cover a period of less than twelve (12) months if the first budget is adopted mid-year or in order to change the fiscal year of the Association.

17.11.2. Special Assessments and Individual Assessments against the Owners may be established by Association, from time to time, and shall be payable at such time or time(s) as determined. Until the Community Completion Date, no Special Assessment shall be imposed without the consent of Developer.

17.11.3. Association may establish, from time to time, by resolution, rule or regulation, or by delegation to an officer or agent, including, a professional management company, Use Fees. The sums established shall be payable by the Owner utilizing the service or facility as determined by Association.

17.12. Working Capital Fund. Association has established a working capital fund for the operation of Association (the "Working Capital Fund"). There shall be collected from each Owner that purchases a Home from Developer at the time of conveyance of each Home an amount equal to two (2) months' Assessments. There shall be collected from each Builder that purchases a Parcel from Developer at the time of conveyance of each Parcel an amount equal to two (2) months' Assessments (or such greater amount determined by Developer from time to time) for each Home which Developer determines can be built on such Parcel. At the time that such Builder conveys a Home to an Owner, such Owner shall pay such Builder an amount equal to the amount paid by such Builder for such Home in order to compensate Builder for the amount advanced. Each Owner's share of the Working Capital Fund shall be transferred to Association immediately after the closing of the Home. The Working Capital Fund shall be used to reduce the deficit that might otherwise be funded by Developer or for any other purposes deemed appropriate by Developer and/or Association. Without limiting the foregoing, no portion of the Working Capital Fund shall be used for the payment of legal fees or litigation expenses. To the extent of any deficiencies in the Common Areas, Association shall use the Working Capital Fund to remedy such deficiencies before making any claim against Developer. Moreover, the total amount of such funds and interest accrued thereon, if any, shall be a set-off against any amounts payable by Developer to Association. Amounts paid into the Working Capital Fund are not to be considered as advance payment of Assessments and may be used by Association for any purpose whatsoever, including without limitation, reducing funding obligations, if any, of Developer relative to Association. Notwithstanding anything herein to the contrary, Developer shall have the option to waive contributions to the Working Capital Fund. Developer shall determine when, if ever, the Owner of an Apartment Building shall contribute to the Working Capital Fund and the amount of any contribution due from the Owner of an Apartment Building, if any (which may be significantly less than that required of other Owners).

17.13. Assessment Estoppel Certificates. No Owner shall sell or convey its interest in a Home unless all sums due to the Association have been paid in full and an estoppel certificate in recordable form shall have been

received by such Owner. Association shall prepare and maintain a ledger noting Assessments and Club Charges due from each Owner. The ledger shall be kept in the office of Association, or its designees, and shall be open to inspection by any Owner and Club Owner. Within ten (10) days of a written request therefor, there shall be furnished to an Owner an estoppel certificate in writing setting forth whether the assessments have been paid and/or the amount which is due as of any date. As to parties other than Owners who, without knowledge of error, rely on the certificate, the certificate shall be conclusive evidence of the amount of any Assessment therein stated. The Owner requesting the estoppel certificate shall be required to pay Association a reasonable sum to cover the costs of examining records and preparing such estoppel certificate. Each Owner waives its rights (if any) to an accounting related to Operating Costs or Assessments.

17.14. **Payment of Home Real Estate Taxes.** Each Owner shall pay all taxes and obligations relating to its Home which, if not paid, could become a lien against the Home which is superior to the lien for Assessments created by this Declaration.

17.15. **Creation of the Lien and Personal Obligation.** Each Owner, by acceptance of a deed or instrument of conveyance for the acquisition of title to a Home, shall be deemed to have covenanted and agreed that the Assessments, and/or other charges and fees set forth herein, together with interest, late fees, costs and reasonable attorneys' fees and paraprofessional fees at all levels of proceedings including appeals, collections and bankruptcy, shall be a charge and continuing lien in favor of Association encumbering the Home and all personal property located thereon owned by the Owner against whom each such Assessment is made. The lien is effective from and after recording a Claim of Lien in the Public Records stating the legal description of the Home, name of the Owner, and the amounts due as of that date, but shall relate back to the date that this Declaration is recorded. Without limiting the foregoing, any Claim of Lien filed by the Association shall have priority and be superior to any lien of a Neighborhood Association. The Claim of Lien shall also cover any additional amounts which accrue thereafter until satisfied. Each Assessment, together with interest, late fees, costs and reasonable attorneys' fees and paraprofessional fees at all levels including appeals, collections and bankruptcy, and other costs and expenses provided for herein, shall be the personal obligation of the person who was the Owner of the Home at the time when the Assessment became due, as well as the Owner's heirs, devisees, personal representatives, successors or assigns.

17.16. **Subordination of the Lien to Mortgages and Club Charges.** The lien for Assessments shall be subordinate to bona fide first mortgages on any Home, if the mortgage is recorded in the Public Records prior to the Claim of Lien, and to Club Charges. The lien for Assessments shall not be affected by any sale or transfer of a Home, except in the event of a sale or transfer (by deed in lieu of foreclosure or otherwise) of a Home pursuant to a foreclosure of a bona fide first mortgage, or a lien for Club Charges, in which event, the acquirer of title, its successors and assigns, shall not be liable for Assessments encumbering the Home or chargeable to the former Owner of the Home which became due prior to such sale or transfer. However, any such unpaid Assessments for which such acquirer of title is not liable may be reallocated and assessed to all Owners (including such acquirer of title) as a part of Operating Costs included within Installment Assessments. Any sale or transfer (by deed in lieu of foreclosure or otherwise) pursuant to a foreclosure shall not relieve the Owner from liability for, nor the Home from the lien of, any Assessments made thereafter. Nothing herein contained shall be construed as releasing the party liable for any delinquent Assessments from the payment thereof, or the enforcement of collection by means other than foreclosure.

17.17. **Acceleration.** In the event of a default in the payment of any Assessment, Association may accelerate the Assessments then due for up to the next ensuing twelve (12) month period.

17.18. **Non-Payment of Assessments.** If any Assessment is not paid within fifteen (15) days (or such other period of time established by the Board) after the due date, a late fee of \$25.00 per month (or such greater amount established by the Board), together with interest in an amount equal to the maximum rate allowable by law (or such lesser rate established by the Board), per annum, beginning from the due date until paid in full, may be levied. Association may, at any time thereafter, bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against the Home, or both. Association shall not be required to bring such an action if it believes that the best interests of Association would not be served by doing so. There shall be added to the Assessment all costs expended in preserving the priority of the lien and all costs and expenses of collection, including attorneys' fees

and paraprofessional fees, at all levels of proceedings, including appeals, collection and bankruptcy. No Owner may waive or otherwise escape liability for Assessments provided for herein by non-use of, or the waiver of the right to use the Common Areas or the Club or by abandonment of a Home.

17.19. **Exemption.** Notwithstanding anything to the contrary herein, neither Developer nor Club Owner nor any Home or property owned by Developer or Club Owner shall (unless specified to the contrary by Developer or Club Owner in a separate written instrument) be responsible for any Assessments of any nature or any portion of the Operating Costs. Developer, at Developer's sole option, may pay Assessments on Homes owned by it. In addition, the Board shall have the right to exempt any portion of Baywinds subject to this Declaration from the Assessments, provided that such part of Baywinds exempted is used (and as long as it is used) for any of the following purposes:

17.19.1. Any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use;

17.19.2. Any real property interest held by a Telecommunications Provider;

17.19.3. Common Areas or property (other than a Home) owned by a Neighborhood Association;

17.19.4. Any of Baywinds exempted from ad valorem taxation by the laws of the State of Florida or exempted from Assessments by other provisions of this Declaration;

17.19.5. Any easement or other interest dedicated or conveyed to not for profit corporations for the use and benefit of residents in the Development of Regional Impact of which Baywinds is a part.

17.20. **Collection by Developer.** If for any reason Association shall fail or be unable to levy or collect Assessments, then in that event, Developer shall at all times have the right, but not the obligation: (i) to advance such sums as a loan to Association to bear interest and to be repaid as hereinafter set forth; and/or (ii) to levy and collect such Assessments by using the remedies available as set forth above, which remedies, including, but not limited to, recovery of attorneys' fees and paraprofessional fees at all levels including appeals, collections and bankruptcy, shall be deemed assigned to Developer for such purposes. If Developer advances sums, it shall be entitled to immediate reimbursement, on demand, from Association for such amounts so paid, plus interest thereon at the Wall Street Journal Prime Rate plus two percent (2%), plus any costs of collection including, but not limited to, reasonable attorneys' fees and paraprofessional fees at all levels including appeals, collections and bankruptcy.

17.21. **Rights to Pay Assessments and Receive Reimbursement.** Association, Developer, Club Owner and any Lender of a Home shall have the right, but not the obligation, jointly and severally, and at their sole option, to pay any Assessments or other charges which are in default and which may or have become a lien or charge against any Home. If so paid, the party paying the same shall be subrogated to the enforcement rights of Association with regard to the amounts due.

17.22. **Club Charges.** As provided in the club Covenants, Club Owner shall have the right, at its sole option, to require that Association enforce Club Owner's lien to collect Club Charges.

17.23. **Mortgagee Right.** Each Lender may request in writing that Association notify such Lender of any default of the Owner of the Home subject to the Lender's Mortgage under the Association Documents which default is not cured within thirty (30) days after Association learns of such default. A failure by Association to furnish notice to any Lender shall not result in liability of Association because such notice is given as a courtesy to a Lender and the furnishing of such notice is not an obligation of Association to Lender.

18. **Information to Lenders and Owners.**

18.1. **Availability.** There shall be available for inspections upon request, during normal business hours or under other reasonable circumstances, to Owners and Lenders current copies of the Association Documents.

18.2. **Copying.** Any Owner and/or Lender shall be entitled, upon written request, and at its cost, to a copy of the documents referred to above.

18.3. **Notice.** Upon written request by a Lender (identifying the name and address of the Lender and the name and address of the applicable Owner), the Lender will be entitled to timely written notice of:

18.3.1. Any condemnation loss or casualty loss which affects a material portion of a Home to the extent Association is notified of the same;

18.3.2. Any delinquency in the payment of Assessments or Club Charges owed by an Owner of a Home subject to a first mortgage held by the Lender, which remains uncured for a period of sixty (60) days;

18.3.3. Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained hereunder;

18.3.4. Any proposed action (if any) which would require the consent of a specific mortgage holder.

19. **Architestructural Control.**

19.1. **Architestructural Control Committee.** The ACC shall be a permanent committee of Association and shall administer and perform the architectural and landscape review and control functions relating to Baywinds. The ACC shall consist of a minimum of three (3) members who shall initially be named by Developer and who shall hold office at the pleasure of Developer. Until the Community Completion Date, Developer shall have the right to change the number of members on the ACC; and to appoint, remove, and replace all members of the ACC. Developer shall determine which members of the ACC shall serve as its chairman and co-chairman. In the event of the failure, refusal, or inability to act of any of the members appointed by Developer, Developer shall have the right to replace any member within thirty (30) days of such occurrence. If Developer fails to replace that member, the remaining members of the ACC shall fill the vacancy by appointment. From and after the Community Completion Date, the Board shall have the same rights as Developer with respect to the ACC.

19.2. **Membership.** There is no requirement that any member of the ACC be an Owner or a member of the Association.

19.3. **General Plan.** It is the intent of this Declaration to create a general plan and scheme of development of Baywinds. Accordingly, the ACC shall have the right to approve or disapprove all architectural, landscaping, and improvements within Baywinds by Owners other than Developer or Club Owner. The ACC shall have the right to evaluate all plans and specifications as to harmony of exterior design, landscaping, location of any proposed improvements, relationship to surrounding structures, topography and conformity with such other reasonable requirements as shall be adopted by ACC. The ACC may impose standards for construction and development which may be greater or more stringent than standards prescribed in applicable building, zoning, or other local governmental codes. Prior to the Community Completion Date, any additional standards or modification of existing standards shall require the consent of Developer, which may be granted or denied in its sole discretion.

19.4. **Master Plan.** Developer has established an overall Master Plan. However, notwithstanding the above, or any other document, brochures or plans, Developer reserves the right to modify the Master Plan or any site plan at any time as it deems desirable in its sole discretion and in accordance with applicable laws and ordinances. WITHOUT LIMITING THE FOREGOING, DEVELOPER AND/OR BUILDERS MAY PRESENT TO THE PUBLIC OR TO OWNERS RENDERINGS, PLANS, MODELS, GRAPHICS, TOPOGRAPHICAL TABLES, SALES BROCHURES, OR OTHER PAPERS RESPECTING BAYWINDS. SUCH RENDERINGS, PLANS, MODELS, GRAPHICS, TOPOGRAPHICAL TABLES, SALES BROCHURES, OR OTHER PAPERS ARE NOT A GUARANTEE OF HOW BAYWINDS WILL APPEAR UPON COMPLETION AND DEVELOPER RESERVES THE

RIGHT TO CHANGE ANY AND ALL OF THE FOREGOING AT ANY TIME AS DEVELOPER DEEMS NECESSARY IN ITS SOLE AND ABSOLUTE DISCRETION.

19.5. Community Standards. Each Owner and its contractors and employees shall observe, and comply with, the Community Standards which now or may hereafter be promulgated by the ACC and approved by the Board from time to time. The Community Standards shall be effective from the date of adoption; shall be specifically enforceable by injunction or otherwise; and shall have the effect of covenants as if set forth herein verbatim. The Community Standards shall not require any Owner to alter the improvements previously constructed. Until the Community Completion Date, Developer shall have the right to approve the Community Standards, which approval, may be granted in its sole discretion.

19.6. Quorum. A majority of the ACC shall constitute a quorum to transact business at any meeting. The action of a majority present at a meeting at which a quorum is present shall constitute the action of the ACC. In lieu of a meeting, the ACC may act in writing.

19.7. Power and Duties of the ACC. No improvements shall be constructed on a Parcel, no exterior of a Home shall be repainted, nor landscaping, sign, or improvements erected, removed, planted, or maintained on a Parcel, nor shall any material addition to or any change, replacement, or alteration of the improvements as originally constructed by Developer (visible from the exterior of the Home) be made until the plans and specifications showing the nature, kind, shape, height, materials, floor plans, color scheme, and the location of same shall have been submitted to and approved in writing by the ACC.

19.8. Procedure. In order to obtain the approval of the ACC, each Owner shall observe the following:

19.8.1. Each applicant shall submit an application to the ACC with respect to any proposed improvement or material change in an improvement, together with the required application(s) and other fee(s) as established by the ACC. The applications shall include such information as may be required by the application form adopted by the ACC. The ACC may also require submission of samples of building materials and colors proposed to be used. At the time of such submissions, the applicant shall, if requested, submit to the ACC, such site plans, plans and specifications for the proposed improvement, prepared and stamped by a registered Florida architect or residential designer, and landscaping and irrigation plans, prepared by a registered landscape architect or designer showing all existing trees and major vegetation stands and surface water drainage plan showing existing and proposed design grades, contours relating to the predetermined ground floor finish elevation, pool plans and specifications and the times scheduled for completion, all as reasonably specified by the ACC.

19.8.2. In the event the information submitted to the ACC is, in the ACC's opinion, incomplete or insufficient in any manner, the ACC may request and require the submission of additional or supplemental information. The Owner shall, within fifteen (15) days thereafter, comply with the request.

19.8.3. No later than thirty (30) days after receipt of all information required by the ACC for final review, the ACC shall approve or deny the application in writing. The ACC shall have the right to refuse to approve any plans and specifications which are not suitable or desirable, in the ACC's sole discretion, for aesthetic or any other reasons or to impose qualifications and conditions thereon. In approving or disapproving such plans and specifications, the ACC shall consider the suitability of the proposed improvements, the materials of which the improvements are to be built, the site upon which the improvements are proposed to be erected, the harmony thereof with the surrounding area and the effect thereof on adjacent or neighboring property. In the event the ACC fails to respond within said thirty (30) day period, the plans and specifications shall be deemed disapproved by the ACC.

19.8.4. Construction of all improvements shall be completed within the time period set forth in the application and approved by the ACC.

19.8.5. In the event that the ACC disapproves any plans and specifications, the applicant may request a rehearing by the ACC for additional review of the disapproved plans and specifications. The meeting shall

take place no later than thirty (30) days after written request for such meeting is received by the ACC, unless applicant waives this time requirement in writing. The ACC shall make a final written decision no later than thirty (30) days after such meeting. In the event the ACC fails to provide such written decision within said thirty (30) days, the plans and specifications shall be deemed disapproved.

19.8.6. Upon final disapproval (even if the members of the Board and ACC are the same), the applicant may appeal the decision of the ACC to the Board within thirty (30) days of the ACC's written review and disapproval. Review by the Board shall take place no later than thirty (30) days subsequent to the receipt by the Board of the Owner's request therefor. If the Board fails to hold such a meeting within thirty (30) days after receipt of request for such meeting, then the plans and specifications shall be deemed approved. The Board shall make a final decision no later than thirty (30) days after such meeting. In the event the Board fails to provide such written decision within said thirty (30) days after such meeting, such plans and specifications shall be deemed approved. The decision of the ACC, or if appealed, the Board, shall be final and binding upon the applicant, its heirs, legal representatives, successors and assigns.

19.9. Alterations. Any and all alterations, deletions, additions and changes of any type or nature whatsoever to then existing improvements or the plans or specifications previously approved by the ACC shall be subject to the approval of the ACC in the same manner as required for approval of original plans and specifications.

19.10. Variances. Association or ACC shall have the power to grant variances from any requirements set forth in this Declaration or from the Community Standards, on a case by case basis, provided that the variance sought is reasonable and results from a hardship upon the applicant. The granting of a variance shall not nullify or otherwise affect the right to require strict compliance with the requirements set forth herein or in the Community Standards on any other occasion.

19.11. Permits. The Owner is solely responsible to obtain all required building and other permits from all governmental authorities having jurisdiction.

19.12. Construction by Owners. The following provisions govern construction activities by Owners after consent of the ACC has been obtained:

19.12.1. Each Owner shall deliver to the ACC, if requested, copies of all construction and building permits as and when received by the Owner. Each construction site in Baywinds shall be maintained in a neat and orderly condition throughout construction. Construction activities shall be performed on a diligent, work manlike and continuous basis. Roadways, easements, swales, Common Areas and other such areas in Baywinds shall be kept clear of construction vehicles, construction materials and debris at all times. No construction office or trailer shall be kept in Baywinds and no construction materials shall be stored in Baywinds subject, however, to such conditions and requirements as may be promulgated by the ACC. All refuse and debris shall be removed or deposited in a dumpster on a daily basis. No materials shall be deposited or permitted to be deposited in any canal or waterway or Common Areas or other Homes in Baywinds or be placed anywhere outside of the Home upon which the construction is taking place. No hazardous waste or toxic materials shall be stored, handled and used, including, without limitation, gasoline and petroleum products, except in compliance with all applicable federal, state and local statutes, regulations and ordinances, and shall not be deposited in any manner on, in or within the construction or adjacent property or waterways. All construction activities shall comply with the Community Standards. If a contractor or Owner shall fail in any regard to comply with the requirements of this Section, the ACC may require that such contractor or Owner post security with Association in such form and amount deemed appropriate by the ACC in its sole discretion.

19.12.2. There shall be provided to the ACC, if requested, a list (name, address, telephone number and identity of contact person), of all contractors, subcontractors, materialmen and suppliers (collectively, "Contractors") and changes to the list as they occur relating to construction. Each Builder and all of its employees and contractors and their employees shall utilize those roadways and entrances into Baywinds as are designated by the ACC for construction activities. The ACC shall have the right to require that each builder's and contractor's employees check in at the

designated construction entrances and to refuse entrance to persons and parties whose names are not registered with the ACC

19.12.3. Each Owner is responsible for insuring compliance with all terms and conditions of these provisions and of the Community Standards by all of its employees and contractors. In the event of any violation of any such terms or conditions by any employee or contractor, or, in the opinion of the ACC, the continued refusal of any employee or contractor to comply with such terms and conditions, after five (5) days' notice and right to cure, the ACC shall have, in addition to the other rights hereunder, the right to prohibit the violating employee or contractor from performing any further services in Baywinds.

19.12.4. The ACC may, from time to time, adopt standards governing the performance or conduct of owners, contractors and their respective employees within Baywinds. Each Owner and contractor shall comply with such standards and cause its respective employees to also comply with same. The ACC may also promulgate requirements to be inserted in all contracts relating to construction within Baywinds and each Owner shall include the same therein.

19.13. Inspection. There is specifically reserved to Association and ACC and to any agent or member of either of them, the right of entry and inspection upon any portion of Baywinds at any time within reasonable daytime hours, for the purpose of determination whether there exists any violation of the terms of any approval or the terms of this Declaration or the Community Standards.

19.14. Violation. If any improvement shall be constructed or altered without prior written approval, or in a manner which fails to conform with the approval granted, the Owner shall, upon demand of Association or the ACC, cause such improvement to be removed, or restored until approval is obtained or in order to comply with the plans and specifications originally approved. The Owner shall be liable for the payment of all costs of removal or restoration, including all costs and attorneys' fees and paraprofessional fees at all levels including appeals, collections and bankruptcy, incurred by Association or ACC. The costs shall be deemed an Individual Assessment and enforceable pursuant to the provisions of this Declaration. The ACC and/or Association is specifically empowered to enforce the architectural and landscaping provisions of this Declaration and the Community Standards, by any legal or equitable remedy.

19.15. Court Costs. In the event that it becomes necessary to resort to litigation to determine the propriety of any constructed improvement or to cause the removal of any unapproved improvement, Association and/or ACC shall be entitled to recover court costs, expenses and attorneys' fees and paraprofessional fees at all levels, including appeals, collections and bankruptcy, in connection therewith.

19.16. Certificate. In the event that any Owner fails to comply with the provisions contained herein, the Community Standards, or other rules and regulations promulgated by the ACC, Association and/or ACC may, in addition to all other remedies contained herein, record a Certificate of Non-Compliance against the Home stating that the improvements on the Home fail to meet the requirements of this Declaration and that the Home is subject to further enforcement remedies.

19.17. Certificate of Compliance. Prior to the occupancy of any improvement constructed or erected on any Home by other than Developer, or its designees, the Owner thereof shall obtain a Certificate of Compliance from the ACC, certifying that the Owner has complied with the requirements set forth herein. The ACC may, from time to time, delegate to a member or members of the ACC, the responsibility for issuing the Certificate of Compliance. The issuance of a Certificate of Compliance does not abrogate the ACC's rights set forth in Section 19.13 herein.

19.18. Exemption. Notwithstanding anything to the contrary contained herein, or in the Community Standards, any improvements of any nature made or to be made by Developer, Builder or Club Owner, or their nominees, including, without limitation, improvements made or to be made to the Common Areas, Club or any Home, shall not be subject to the review of the ACC, Association, or the provisions of the Community Standards.

19.19. **Exculpation.** Developer, Association, the directors or officers of Association, the ACC, the members of the ACC, or any person acting on behalf of any of them, shall not be liable for any cost or damages incurred by any Owner or any other party whatsoever, due to any mistakes in judgment, negligence, or any action of Developer, Association, ACC or their members, officers, or directors, in connection with the approval or disapproval of plans and specifications. Each Owner agrees, individually and on behalf of its heirs, successors and assigns by acquiring title to a Home, that it shall not bring any action or suit against Developer, Association or their respective directors or officers, the ACC or the members of the ACC, or their respective agents, in order to recover any damages caused by the actions of Developer, Association, or ACC or their respective members, officers, or directors in connection with the provisions of this Section. Association does hereby indemnify, defend and hold Developer and the ACC, and each of their members, officers, and directors harmless from all costs, expenses, and liabilities, including attorneys' fees and paraprofessional fees at all levels, including appeals, of all nature resulting by virtue of the acts of the Owners, Association, ACC or their members, officers and directors. Developer, Association, its directors or officers, the ACC or its members, or any person acting on behalf of any of them, shall not be responsible for any defects in any plans or specifications or the failure of same to comply with applicable laws or code nor for any defects in any improvements constructed pursuant thereto. Each party submitting plans and specifications for approval shall be solely responsible for the sufficiency thereof and for the quality of construction performed pursuant thereto.

20. **Owners Liability.**

20.1. **Right to Cure.** Should any Owner do any of the following:

20.1.1. Fail to perform its responsibilities as set forth herein or otherwise breach the provisions of the Declaration; or

20.1.2. Cause any damage to any improvement or Common Areas or Club; or

20.1.3. Impede Developer, Club Owner or Association from exercising its rights or performing its responsibilities hereunder or under the Club Covenants; or

20.1.4. Undertake unauthorized improvements or modifications to a Home, the Common Areas or the Club; or

20.1.5. Impede Developer or Club Owner from proceeding with or completing the development of Baywinds or Club, as the case may be.

Then Developer, Association and/or Club Owner, where applicable, after reasonable prior written notice, shall have the right, through its agents and employees, to cure the breach, including, but not limited to, the entering upon the Home and/or Home and causing the default to be remedied and/or the required repairs or maintenance to be performed, or as the case may be, remove unauthorized improvements or modifications. The cost thereof, plus reasonable overhead costs and attorneys' fees and paraprofessional fees at all levels including appeals, collections and bankruptcy, incurred shall be assessed against the Owner as an Individual Assessment.

20.2. **Non-Monetary Defaults.** In the event of a violation by any Owner, other than the nonpayment of any Assessment or other monies, of any of the provisions of this Declaration, Developer or Association shall notify the Owner of the violation, by written notice. If such violation is not cured as soon as practicable and in any event within seven (7) days after such written notice, the party entitled to enforce same may, at its option:

20.2.1. Commence an action to enforce the performance on the part of the Owner or to enjoin the violation or breach or for equitable relief as may be necessary under the circumstances, including injunctive relief, and/or

20.2.2. Commence an action to recover damages; and/or

Name: _____
Date: _____

Name: _____
Date: _____

APPROVAL OF DEVELOPER

LENNAR LAND PARTNERS, a Florida general partnership

BY: LENNAR HOMES, INC., a Florida corporation

By: _____
Name: _____
Title: _____
Date: _____

entitled to recover court costs, expenses and attorneys' fees and paraprofessional fees at all levels, including appeals, collections and bankruptcy, in connection therewith.

14. **Exemption.** Notwithstanding anything to the contrary contained in these Community Standards, any improvements of any nature made or to be made by Developer, or their nominees, including, without limitation, improvements made or to be made to the Common Areas or any Home, shall not be subject to the review of the ACC, Association, or the provisions of these Community Standards.

15. **Supplemental Exculpation.** Developer, Association, the directors or officers of Association, the ACC, the members of the ACC, or any person acting on behalf of any of them, shall not be liable for any cost or damages incurred by any Owner or any other party whatsoever, due to any mistakes in judgment, negligence, or any action of Developer, Association, ACC or their members, officers, or directors, in connection with the approval or disapproval of plans and specifications. Each Owner agrees, individually and on behalf of its heirs, successors and assigns by acquiring title to a Home, that it shall not bring any action or suit against Developer, Association or their respective directors or officers, the ACC or the members of the ACC, or their respective agents, in order to recover any damages caused by the actions of Developer, Association, or ACC or their respective members, officers, or directors in connection with the provisions of this Section. Association does hereby indemnify, defend and hold Developer and the ACC, and each of their members, officers, and directors harmless from all costs, expenses, and liabilities, including attorneys' fees and paraprofessional fees at all levels, including appeals, of all nature resulting by virtue of the acts of the Owners, Association, ACC or their members, officers and directors. Developer, Association, its directors or officers, the ACC or its members, or any person acting on behalf of any of them, shall not be responsible for any defects in any plans or specifications or the failure of same to comply with applicable laws or code nor for any defects in any improvements constructed pursuant thereto. Each party submitting plans and specifications for approval shall be solely responsible for the sufficiency thereof and for the quality of construction performed pursuant thereto.

16. **Amendments to Community Standards.** The ACC shall recommend from time to time to the Board modifications and/or amendments to these Community Standards. Any modifications or amendments to these Community Standards shall be consistent with the provisions of the Declaration, and shall not be effective until approved by the Board and, prior to the Community Completion Date, by Developer. Notice of any modification or amendment to these Community Standards, including a verbatim copy of such change or modification, shall be posted within Baywinds, provided, however, the posting of notice of any modification or amendment to these Community Standards shall not constitute a condition precedent to the effectiveness or validity of such change or modification.

**APPROVAL OF ARCHITECTURAL CONTROL
COMMITTEE**

Name: _____
Date: _____

Name: _____
Date: _____

APPROVAL OF BOARD OF DIRECTORS

Name: _____
Date: _____

Name: _____
Date: _____

on a daily basis. No materials shall be deposited or permitted to be deposited in any canal or waterway or Common Areas or other Homes in Baywinds or be placed anywhere outside of the Home upon which the construction is taking place. No hazardous waste or toxic materials shall be stored, handled and used, including, without limitation, gasoline and petroleum products, except in compliance with all applicable federal, state and local statutes, regulations and ordinances, and shall not be deposited in any manner on, in or within the construction or adjacent property or waterways. All construction activities shall comply with these Community Standards. Any permit boards or signs must be removed immediately upon completion of construction and work activities. In the event a contractor or Owner shall fail to comply with the foregoing, the ACC may require that such contractor or Owner post security with Association in such form and amount deemed appropriate by the ACC in its sole discretion.

10.2. Required Lists. There shall be provided to the ACC, if requested, a list (name, address, telephone number and identity of contact person), of all contractors, subcontractors, materialmen and suppliers (collectively, "Contractors") and changes to the list as they occur relating to construction. Each Builder and all of its employees and contractors and their employees shall utilize those roadways and entrances into Baywinds as are designated by the ACC for construction activities. The ACC shall have the right to require that each builder's and contractor's employees check in at the designated construction entrances and to refuse entrance to persons and parties whose names are not registered with the ACC.

10.3. Owner Responsibility. Each Owner is responsible for insuring compliance with all terms and conditions of these Community Standards by all of its employees and contractors. In the event of any violation of any such terms or conditions by any employee or contractor, or, in the opinion of the ACC, the continued refusal of any employee or contractor to comply with such terms and conditions, after five (5) days' notice and right to cure, the ACC shall have, in addition to the other rights hereunder, the right to prohibit the violating employee or contractor from performing any further services in Baywinds. Each Owner is responsible for restoring any Common Areas damaged or destroyed by work activities of such Owner's contractor(s).

10.4. ACC Standards. The ACC may, from time to time, adopt standards governing the performance or conduct of Owners, contractors and their respective employees within Baywinds. Each Owner and contractor shall comply with such standards and cause its respective employees to also comply with same. The ACC may also promulgate requirements to be inserted in all contracts relating to construction within Baywinds and each Owner shall include the same therein.

11. Inspection. There is specifically reserved to Association and ACC and to any agent or member of either of them, the right of entry and inspection upon any portion of Baywinds for the purpose of determination whether there exists any violation of the terms of any approval or the terms of the Declaration or these Community Standards. Without limiting the foregoing, the ACC shall have the right to make inspections during the construction of any structure or improvement to ensure that such structure or improvement is being constructed in accordance with the plans previously submitted to and approved by the ACC.

12. Violation. If any improvement shall be constructed or altered without prior written approval, or in a manner which fails to conform with the approval granted, the Owner shall, upon demand of Association or the ACC, cause such improvement to be removed, or restored until approval is obtained or in order to comply with the plans and specifications originally approved. The Owner shall be liable for the payment of all costs of removal or restoration, including all costs and attorneys' fees and paraprofessional fees at all levels including appeals, collections and bankruptcy, incurred by Association or ACC. The costs shall be deemed an Individual Assessment and enforceable pursuant to the provisions of the Declaration. The ACC and/or Association is specifically empowered to enforce the architectural and landscaping provisions of the Declaration and these Community Standards, by any legal or equitable remedy.

13. Court Costs. In the event that it becomes necessary to resort to litigation to determine the propriety of any constructed improvement or to cause the removal of any unapproved improvement, Association and/or ACC shall be

6.2. Notwithstanding any provision herein to the contrary, unless the ACC disapproves the following proposed improvements within five (5) days after the ACC receives written request for such approval, the request shall be deemed approved by the ACC:

6.2.1. Installation of an antenna designed to receive direct broadcast satellite services, video programming services via multipoint distribution services, and/or television broadcast services.

6.2.2. Installation of a satellite earth station antenna that is one (1) meter or less in diameter.

All references in this paragraph to "identical" shall mean that such item shall be replaced with an item that is identical in all respects to the existing item (*i.e.*, the identical style, texture, size, color, type, etc.).

7. Deviations. No construction may commence until the final plans and specifications have been approved by the ACC. No deviations from the approved plans and specifications shall be permitted and the ACC may require work to be stopped if a deviation is discovered until the deviation is corrected. Association may withhold issuance of its Certificate of Compliance if the completed Home deviates from the ACC approved plans and may take appropriate action against the responsible parties to require conformance to the ACC approved plans.

8. Administrative Fees and Compensation. As a means of defraying its expense, the ACC may institute and require a reasonable filing fee to accompany the submission of the preliminary plans and specifications. The initial minimum fee will be Fifteen no/100 dollars (\$15.00). No additional fee shall be required for re-submissions. No member of the ACC shall be entitled to any compensation for services performed pursuant to these Community Standards. In addition, if special architectural or other professional review is required of any particular improvement, the applicant shall also be responsible for reimbursing the ACC for the cost of such review.

9. Liability. Notwithstanding the approval by the ACC of plans and specifications submitted to it or its inspection of the work in progress, neither it, Developer, Association, nor any other person acting on behalf of any of them, shall be responsible in any way for any defects in any plans or specifications or other material submitted to the ACC, nor for any defects in any work completed pursuant thereto. Each applicant submitting plans or specifications to the ACC shall be solely responsible for the sufficiency thereof and the adequacy of improvements constructed pursuant thereto. In no event shall the ACC, Association, or Developer owe any duty to any Owner or any other party with respect to the quality of the construction or the compliance of the construction with approved plans and specifications and the respective Owner shall indemnify and hold harmless the ACC, Association, and Developer from any and all claims resulting therefrom including reasonable attorneys' and paraprofessional fees and costs. The approval of any proposed improvements or alterations by the ACC shall not constitute a warranty or approval as to, and no member or representative of the ACC or the Board shall be liable for, the safety, soundness, workmanship, materials or usefulness for any purpose of any such improvement or alteration nor as to its compliance with governmental or industry codes or standards. By submitting a request for the approval of any improvement or alteration, the requesting Owner shall be deemed to have automatically agreed to hold harmless and indemnify the aforesaid members and representatives, and Association, generally, from and for any loss, claim or damages connected with such aspects of the improvements or alterations.

10. Construction by Owners. The following provisions govern construction activities by Owners after consent of the ACC has been obtained:

10.1. Miscellaneous. Each Owner shall deliver to the ACC, if requested, copies of all construction and building permits as and when received by the Owner. Each construction site in Baywinds shall be maintained in a neat and orderly condition throughout construction. Construction activities shall be performed on a diligent, work manlike and continuous basis. Roadways, easements, swales, Common Areas and other such areas in Baywinds shall be kept clear of construction vehicles, construction materials and debris at all times. No construction office or trailer shall be kept in Baywinds and no construction materials shall be stored in Baywinds subject, however, to such conditions and requirements as may be promulgated by the ACC. All refuse and debris shall be removed or deposited in a dumpster

An approved flagpole may not be used as an antenna. One meter satellite dishes may be placed below the roof line in rear of the Home with the prior approval of the ACC as provided in Section 6.2 herein.

5.27. Holiday Lights. Holiday lights may be put up on Homes within Baywinds so long as the lights do not create a nuisance (e.g., unacceptable spillover to adjacent lot).

5.28. Additions. Rain water from a new addition roof or new grade of Home terrain must not run on neighboring property as to create a nuisance. The location of all windows in a new addition must not adversely affect the privacy of adjoining neighbors. Each Owner is responsible for maintaining established drainage patterns on the lot comprising the Home so as not to adversely affect drainage in any other portion of Baywinds.

5.29. Awnings and Shutters. All awnings and shutters, other than those originally installed by Developer, must be approved by the ACC and must be color compatible with exterior of the Home.

5.30. Doors. The replacement of exterior doors must be color compatible with the exterior of the Home. All exterior entrance doors must be compatible with the neighborhood.

5.31. Glass Block. The use of glass block on an existing Home or the use of glass block in an addition to an existing Home is subject to approval.

5.32. Storage. No temporary or permanent utility or storage shed, storage building, tent or other structure or improvement shall be permitted and no other structure or improvement shall be constructed, erected, altered, modified or maintained without prior approval of the ACC. Any such structure, if approved, shall be within a fenced area and below the fence level in height.

5.33. Gutter and Solar Collectors. All gutters must match the exterior house color, trim color and window metal color. Gutter down spouts must not concentrate water flow onto neighboring properties. Solar collectors must not be installed so as to be visible from the street.

6. Express Approval.

6.1. Notwithstanding any provision herein to the contrary, unless the ACC disapproves one of the following proposed improvements within five (5) days after the ACC receives written request for such approval, the request shall be deemed approved by the ACC:

6.1.1. Re-paint house exteriors and trims in the identical color previously approved by the ACC.

6.1.2. Re-surface existing driveways in the identical color/material previously approved by the ACC.

6.1.3. Replace existing screening with identical screening materials previously approved by the ACC.

6.1.4. Replace existing exterior doors with identical exterior doors previously approved by the ACC.

6.1.5. Mailbox Previously Approved.

6.1.6. Replace existing roof with identical roof material.

5.17.2.3. Corner Lots. White rail aluminum fences may be permitted with a maximum height not to exceed four feet (4') if such fence faces a street or sidewalk. Such fence shall be set back at least three feet (3') from property line of Lot to allow for the planting of the required hedge that may be determined by the ACC.

5.17.2.4. Set Back Requirements. All fences shall be set back at least twenty feet (20') from the front corner of the Home where such fence is being installed.

5.18. Landscaping Criteria. Basic landscaping plans for each Home or the modifications to any existing landscaping plan must be submitted to and approved by the ACC. All landscaping must be installed as to fit in with neighboring properties. The ACC may reject the landscape plan based upon its review of its overall design and impact. Such landscaping plan must detail the location of beds and planting materials. New plantings shall require the Owner to maintain such area at such Owner's own cost as the Association shall only maintain landscaping as installed by Developer or the Association. The planting of dangerous plants resulting in unusual or excessive debris will not be permitted. No invasive or non-native (e.g., melaleuca, brazilian pepper) plants are permitted. No landscaping shall be removed without the prior written approval of the ACC. Each Owner is solely responsible for compliance with landscaping and zoning codes.

5.19. Swimming Pools. No above ground pools shall be permitted. All in-ground pools, hot tubs, spas and appurtenances installed shall require the approval of the ACC as set forth herein.

5.20. Tennis Courts. Tennis courts and game courts are not permitted within Lots.

5.21. Garbage and Trash Containers. No Home shall be used or maintained by an Owner as a dumping ground for rubbish, trash or other waste. All trash, garbage and other waste shall be kept in sanitary containers and, except during pickup, if required to be placed at the curb, all containers shall be kept out of public view from either the front of a Home or from neighboring properties.

5.22. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other out building shall be used on any Home at any time as a Home either temporary or permanently.

5.23. Window Air Conditioning. No window or wall air conditioning units shall be permitted.

5.24. Mailboxes. No mailbox or paperbox or other receptacle of any kind for use in the delivery of mail or newspapers or magazines or similar material shall be erected on any Home unless and until the size, location, design and type of material for said house or receptacle shall have been approved by the ACC, provided however, that Developer reserves the right, to be exercised at its option, to provide each mailbox and post to be used on each Home. If and when the United States mail service or the newspaper involved shall indicate a willingness to make delivery to wall receptacles attached to Homes, each Owner, on the request of the ACC, shall replace the boxes or receptacles previously employed for such purpose with the wall receptacles attached to Homes.

5.25. Utility Connections. Building connections for all utilities, including, but not limited to, water, electricity, telephone and television shall be run underground from the proper connecting points to the building structure in such a manner to be acceptable to the governing utility authority. No exposed wiring on exterior of a structure will be permitted other than originally installed by Developer.

5.26. Antenna and Flags. All outside antennas, antenna poles, antenna masts, electronic devises, satellite dish antennas, or antenna towers are subject to the prior approval of the ACC. The ACC may require that all such items be screened from view and that the installation of the antenna comply with all applicable safety restrictions, including any restrictions as to location and height of antenna as imposed by applicable fire codes, electrical codes, zoning codes, and building codes. A flagpole for the display of the American flag only may be permitted if approved by the ACC.

5.13. Garages. No carports will be permitted. Garage doors may have embossed facing. All garage doors must be color compatible with the Home exterior.

5.14. Driveway Construction. All Homes shall have a driveway of pavers or bricks constructed on an approved base. Prior approval for other materials must be obtained from the ACC. A sample of the requested material to be used must be submitted at the time of application for change. All requests for the extension or modification of a driveway must be submitted to the ACC with an application. Walkways may be comprised of pavers, bricks, or poured concrete. No gravel driveways will be permitted.

5.15. Signs: The following signs shall be permitted:

5.15.1. Such signs as Association shall establish as being necessary for purposes of orientation, directional, or traffic control.

5.15.2. Such signs as are presently authorized to developers and builders until such time as the Lots are sold.

5.15.3. A pool builder may place a sign as needed for permit purposes during of a pool. Such sign must be removed immediately upon completion of construction.

5.15.4. Owners shall not display or place any sign of any character including "for rent" or "for sale" signs in the Common Areas or within a Lot.

5.15.5. No other signs of any kind shall be displayed in the public view on any property within Baywinds and all Owners of property subject to these Community Standards do hereby grant to Association and the ACC, the right to enter upon their property for the purpose of removing any unauthorized signs.

5.16. Games, Play Structures and Recreational Equipment. No basketball-backboard, swing set, gym, sand box, nor any other fixed or portable game or play structure, including, without limitation, portable goals, platform, dog house, playhouse or structure of a similar kind or nature shall be constructed on any part of a Lot located within the sight of the street or of any neighboring properties unless properly screened as determined by the ACC. All such structures must have the prior written approval of the ACC.

5.17. Fences and Walls.

5.17.1. No fence or walls shall be constructed on any Home without the prior approval of the ACC. The ACC shall require the composition and color of any fences or walls to be consistent with the material used in the Home, surrounding Homes and other fences, if any. The use of landscaping is to be encouraged in place of walls and fences. Such consent may require the installation of additional landscaping on either or both sides of the fences. All fenced in areas will be the landscape maintenance responsibility of the Owner.

5.17.2. The ACC may withhold its consent for the installation of any fence or wall that does not meet the following minimum standards:

5.17.2.1. Rear Lot Line of Lake or Canal Front Properties. Only white rail aluminum fences may be permitted with a maximum height not to exceed four feet (4') and placement of such fences shall not lie within any lake maintenance easement. The ACC may require supplemental planting and/or ground cover to entrance appearance.

5.17.2.2. Side and Rear Interior Non-Corner Lots Do Not Face on Lakes or Canals. White rail aluminum fences may be permitted with a maximum height not to exceed four feet (4').

5.3. **Permits.** The Owner is solely responsible to obtain all required building and other permits from all governmental authorities having jurisdiction and is responsible for compliance with all applicable building and zoning codes.

5.4. **Harmony and Appearance.** The ACC shall have the right of final approval of the exterior appearance of all Homes including the harmony of the architectural design with the other Homes within the community, including but not limited to, the quality and appearance of all exterior building materials.

5.5. **Architect.** All Homes in the community shall be designed by a registered architect.

5.6. **Setbacks.** The minimum front, side and rear setbacks and minimum square footage for all Homes in the community shall be as required by Palm Beach County and/or the South Florida Building Code, whichever is more restrictive. Where conditions permit, the ACC, at its sole discretion, may require larger setbacks.

5.7. **Type.** No building shall be erected, altered, placed or permitted to remain on any Lot other than a Home. Unless approved by the ACC as to use, location and architectural design, no garage, tool or storage room, playhouse, screened enclosure or greenhouse may be constructed separate and apart from any residential building nor can such structure(s) be constructed prior to construction of the main residential dwelling.

5.8. **Work Commencement.** No work shall commence prior to approval by the ACC. No foundation for a building shall be poured, nor pilings driven, nor shall construction commence in any manner or respect, until the layout for the building is approved by the ACC. It is the purpose of this approval to assure that removal of desirable existing trees is minimized and that the building is placed on the Home in its most advantageous position.

5.9. **Exterior Color Plan.** The ACC shall have final approval of all exterior color plans including materials, and each Owner must submit to the ACC, a color plan showing the color of all exterior surfaces which shall include samples of the actual colors to be utilized and the materials. The ACC shall determine whether the color plan and materials are consistent with the Homes in the surrounding areas and that they conform with the color scheme of the community. The color plan must be submitted prior to construction or repainting. The ACC, at the direction of Association, reserves the right, and is hereby given the right, to determine that any building in the community is in need of outside painting. In the event the determination is made that a building requires outside painting, the ACC shall give the Owner(s) of such building notice of such determination, which notice shall be accompanied by the demand that such Owner(s) comply with such demand within 45 days after the mailing of such notice. In the event such Owner(s) fail to comply with such notice and demand, the ACC shall have the right, but not the obligation, to cause such outside painting to be done and performed, and shall make an Individual Assessment against the Owner(s) to cover the costs of such outside painting, including, without limitation, an administrative fee equal to the greater of \$50 or 15% of the cost of such work, and shall have full lien rights against the Home as set forth in the Declaration.

5.10. **Roofs.** All roofs, including the replacement of all or any part of a roof, must be approved by the ACC. No asphalt roofs shall be permitted. All required heat and plumbing vents shall not penetrate the roof on the road-side of the building unless determined to be absolutely necessary by the ACC. In all events such vents and roof edge flashing shall be painted the same color as the roof. A sample of the material to be used, including the color of the material, must be submitted with the application for approval of a roof or for the replacement of a roof with any material other than the existing material.

5.11. **Window Frames.** Window frames other than wood must be either anodized or electronically painted. If a window frame is steel, the color should be in harmony with the exterior. No mill finish aluminum color will be allowed. Wood frames must be painted.

5.12. **Front, Rear and Side Facades.** The treatment of the rear and side facade will be similar to that of the front elevations of the Home and similar materials will be used as determined by the ACC.

4.3.2. A landscape plan including a graphic indication of the location and size of all plant materials on the site (existing and proposed), and the latin and/or common names of all plants and their planted size.

4.3.3. The ACC may also require submission of samples of building materials and colors proposed to be used.

4.4. Incomplete Application or Supplemental Information Required. In the event the information submitted to the ACC is, in the ACC's opinion, incomplete or insufficient in any manner, the ACC may request and require the submission of additional or supplemental information. The applicant shall, within fifteen (15) days thereafter, comply with the request.

4.5. Quorum. A majority of the ACC shall constitute a quorum to transact business at any meeting. The action of a majority present at a meeting at which a quorum is present shall constitute the action of ACC. In lieu of a meeting, the ACC may act in writing.

4.6. Time for Review. No later than thirty (30) days after receipt of all information required by the ACC for final review, the ACC shall approve or deny the application in writing. The ACC shall have the right to disapprove any plans and specifications which are not suitable or desirable, in the ACC's sole discretion, for aesthetic or any other reasons or to impose qualifications and conditions thereon. In approving or disapproving such plans and specifications, the ACC shall consider the suitability of the proposed improvements, the materials of which the improvements are to be built, the site upon which the improvements are proposed to be erected, the harmony thereof with the surrounding area and the effect thereof on adjacent or neighboring property. In the event the ACC fails to respond within said thirty (30) day period, the plans and specifications shall be deemed disapproved by the ACC.

4.7. Rehearing. In the event that the ACC disapproves any plans and specifications, the applicant may request a rehearing by the ACC for additional review of the disapproved plans and specifications. The meeting shall take place no later than thirty (30) days after written request for such meeting is received by the ACC, unless applicant waives this time requirement in writing. The ACC shall make a final written decision no later than thirty (30) days after such meeting. In the event the ACC fails to provide such written decision within said thirty (30) days, the plans and specifications shall be deemed disapproved.

4.8. Appeal to Board. Upon final disapproval (even if the members of the Board and ACC are the same), the applicant may appeal the decision of the ACC to the Board within thirty (30) days of the ACC's written review and disapproval. Review by the Board shall take place no later than thirty (30) days subsequent to the receipt by the Board of the Owner's request therefor. If the Board fails to hold such a meeting within thirty (30) days after receipt of request for such meeting, then the plans and specifications shall be deemed approved. The Board shall make a final decision no later than thirty (30) days after such meeting. In the event the Board fails to provide such written decision within said thirty (30) days after such meeting, such plans and specifications shall be deemed approved. The decision of the ACC, or if appealed, the Board, shall be final and binding upon the applicant, his heirs, legal representatives, successors and assigns.

4.9. Procedures. The ACC shall adopt, from time to time, additional procedures and forms necessary to carry out its responsibilities under the Declaration and these Community Standards.

5. The Criteria.

5.1. Alterations. Any and all alterations, deletions, additions and changes of any type or nature whatsoever to then existing improvements or the plans or specifications previously approved by the ACC shall be subject to the approval of the ACC in the same manner as required for approval of original plans and specifications.

5.2. Time for Completion. Construction of all improvements shall be completed within the time period set forth in the application and approved by the ACC.

BAYWINDS COMMUNITY ASSOCIATION, INC.

COMMUNITY STANDARDS

Pursuant to the Declaration of Restrictions and Covenants for the Baywinds Community ("Declaration"), Lennar Land Partners, as Developer has appointed the Architectural Control Committee for the Baywinds Community Association, Inc. (the "ACC"). Pursuant to the Declaration, the ACC hereby adopts the following procedures, which shall be known as Community Standards.

1. **Defined Terms.** All initially capitalized terms shall have the meanings set forth in the Declaration unless otherwise defined herein.

2. **Approval Required.** The ACC shall approve or disapprove any improvements or structure of any kind within any portion of Baywinds, including, without limitation, any building, fence, wall, swimming pool, tennis court, screen enclosure, decorative building, landscape device or object, and/or other improvement or change or modification thereto, the construction, erection, performance or placement of which is proposed upon any Home or any other portion of Baywinds. The ACC shall approve or disapprove any exterior addition, changes, modifications or alterations therein or thereon. All decisions of the ACC shall be submitted in writing to the Board. Any party aggrieved by a decision of the ACC shall have the right to make a written request to the Board, within thirty (30) days of such decision, for a review thereof. The determination of the Board upon reviewing any such decision shall in all events be dispositive. Notwithstanding the foregoing ACC approval is not required for improvements or changes to the interior of a Home not visible from the exterior of a Home.

3. **Deviations.** The ACC has the right to deviate from the provisions of these Community Standards for reasons of practical difficulty or particular hardship which otherwise would be suffered by any Owner, without consent of the Owner of any adjoining or adjacent Home. Any deviation, which shall be manifested by written agreement, and shall not constitute a waiver of any restriction or provision of these Community Standards as to any other Home. The granting of a deviation or variance shall not nullify or otherwise affect the right to require strict compliance with the requirements set forth herein on any other occasion.

4. **Procedure.** In order to obtain the approval of the ACC, each Owner shall observe the following:

4.1. **Application.** Each applicant shall submit an application to the ACC with respect to any proposed improvement or material change in an improvement, together with the required application and fee(s) as established by the ACC. The current application form is attached hereto as Exhibit A.

4.2. **Plans Generally.** The ACC may require, at its discretion, up to three (3) complete set of all plans and specifications for any improvement or structure of any kind, including without limitation, any building, fence, wall, swimming pool, tennis court, enclosure, decorative building, landscape device or object, or other improvement, the construction or placement of which is proposed upon any Home, which plans shall include the proposed elevation of all floor slabs and pool decks, and three (3) complete set of the drainage plan, grading plan, tree survey, lot survey, color plan and materials designation plan for such improvement or structure.

4.3. **Revised Plans.** Preliminary plans and drawings must be submitted to the ACC, and approval of the same obtained. The ACC may require the submission of final plans and specifications if initial plans must be revised. All plans and drawings submitted must be signed by both the professional who has prepared such plans and drawings and the Owner of the Home, and must include (unless waived by the ACC) the following:

4.3.1. A current certified survey of the Home showing the proposed location of the improvement, grade elevation, contour lines, location of all proposed paved areas and location of all existing trees.

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BAYWINDS COMMUNITY ASSOCIATION, INC.

COMMUNITY STANDARDS

THIS INSTRUMENT PREPARED BY:

PATRICIA KIMBALL FLETCHER, ESQ.
Zack Kosnirzky, P.A.
NationsBank Tower, Suite 2800
100 S.E. 2nd Street
Miami, Florida 33131

BAYWINDS CLUB COVENANTS

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EXHIBIT 4

CLUB COVENANTS

shall first remit the payments under the Note and Mortgage to Lennar from such Club Operating Costs.

8. Amendment. The fourth sentence of Section 29 of the Original Club Covenants is modified and shall read as follows:

Club Owner shall have the right to amend these Club Covenants as it deems appropriate, without the joinder or consent of any person or entity whatsoever.

9. Covenant Running with Baywinds. This First Amendment is a covenant running with Baywinds.

IN WITNESS WHEREOF, the undersigned, being the Club Owner under the Original Club Covenants, has hereunto set its hand and seal this 9 day of April, 2002.

WITNESSES:

Kerry H. Cripps
Print Name: Kerry H. Cripps
Lisa Mentkoff
Print Name: LISA MENTKOFF

LENNAR LAND PARTNERS, a Florida general partnership

By: LENNAR HOMES, INC., a Florida corporation, attorney-in-fact*

By: Dayle N. Divalley
Name: _____
Title: Vice President

[SEAL]

* pursuant to that certain Power of Attorney recorded in Official Records Book 10092 at Page 423 in the Public Records of Palm Beach County, Florida.

STATE OF FLORIDA)

COUNTY OF Palm Beach)

SS.:)

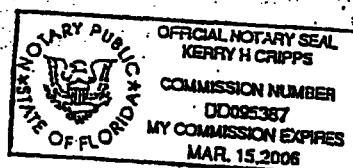
The foregoing instrument was acknowledged before me this 9 day of April, 2002 by Dayle N. Divalley as Vice President of Lennar Homes, Inc., a Florida corporation, as attorney-in-fact for Lennar Land Partners, a Florida general partnership, who is personally known to me or who has produced _____ as identification.

My commission expires: 3/15/06

Kerry H. Cripps
NOTARY PUBLIC, State of Florida

at Large

Print name: Kerry H. Cripps



The Club Purchase Price and, if applicable, the payments due pursuant to the Note and Mortgage shall be deemed part of the Club Operating Costs, and such Club Operating Costs shall first be applied to the payment of the Club Purchase Price, if applicable, the Note and Mortgage, and then to other Club Operating Costs.

5. Mortgage. The last sentence of Section 5.3.2.2 of the Original Club Covenants is hereby amended as follows:

It shall require that Association (i) escrow tax and insurance payments on a monthly basis with Club Owner in a non-interest bearing account; (ii) provide Club Owner with monthly and annual operating statements, annual financial statements, and other financial information (e.g., the Budget); (iii) maintain the Club in a first class condition; (iv) insure the Club for full replacement value; (v) provide rental insurance and liability insurance in such amounts necessary to fully protect the mortgagee under the Mortgage; (vi) assign its interest in Club Operating Costs payable hereunder as additional security for payment of the Note; and (vii) provide that a receiver may be appointed, upon default by Association, to operate the Club, collect Club Operating Costs, and pay amounts due to the mortgagee under the Note.

6. Claim of Lien. The second to last sentence of Section 9.1 of the Original Club Covenants is hereby amended as follows:

Such lien may be enforced by Association at Association's expense or at Club Owner's written discretion enforced by Club Owner, or during the period the Mortgage described in Section 5.3.2.2 remains outstanding, by Lennar, its successors, assigns or designees; however, the claim of Club Owner for Club Fees is paramount to all claims of Association.

7. Right to Designate Collection Agent. The second sentence of Section 9.2 of the Original Club Covenants is hereby amended as follows:

In such event, Club Owner, or its designee, shall collect the Club Operating Costs, Special Use Fees, and/or Club Fees.

The following is hereby added to the end of Section 9.2 of the Original Club Covenants:

During such time as Lennar or its successor, assignee or designee holds the Mortgage described in Section 5.3.2.2, Lennar or its successor, assignee or designee shall, upon written notification to Association, have the exclusive right to collect Club Operating Costs which shall first be applied to amounts then due under the Note and Mortgage and the balance, if any, shall be remitted to Association. In the event Lennar does not exercise this option to collect, Association shall be responsible for the collection of Club Operating Costs and

1. Recitals. The foregoing Recitals are true and correct and are incorporated into and form a part of this First Amendment.
2. Conflicts. In the event that there is a conflict between this Second Amendment and the Original Club Covenants, this Second Amendment shall control. Whenever possible, this Second Amendment and the Original Club Covenants shall be construed as a single document. Except as modified hereby, the Original Club Covenants shall remain in full force and effect.
3. Capitalized Terms. All initially capitalized terms not defined herein shall have the meaning set forth in the Original Club Covenants, except that the defined term "Club Covenants" is hereby modified as follows:

"Club Covenants" shall mean the Original Club Covenants and this First Amendment, together with all amendments and modifications thereof.

Subsection (i) of the definition of "Club Purchase Price" is hereby deleted in its entirety and replaced with the following:

(i) the amount resulting from the application of the capitalization rate of ten percent (10%) applied to the total annual Club Fees payable by all Owners to Club Owner on the latter of the Option Date or the date upon which Association obtains title to the Club Property pursuant to the exercise of the Purchase Option;

4. Documentation of Transfer. The second sentence of Section 5.3.1 of the Original Club Covenants is hereby amended to read as follows:

At the time of the transfer of the Club to Association as a result of the exercise of the Purchase Option, the Owners will no longer be obligated to pay the Club Fees; however, Association shall either (i) pay the Club Purchase Price in cash or by Federal wire out of its own funds, or (ii) obtain financing with a third party lender, the costs thereof shall be Club Operating Costs, or (iii) if Association is unable to obtain third party financing, execute and deliver to Club Owner a purchase money note in the amount of the Club Purchase Price (the "Note"), a purchase mortgage (the "Mortgage"), an assignment of Club Operating Costs payable hereunder, and a Security Agreement and UCC Financing Statements (state and local) and each Owner shall be obligated to pay his or her pro rata share of the Club Purchase Price and, if applicable, principal, interest and other amounts due in connection with such Note and Mortgage.

The last sentence of Section 5.3.1 of the Original Club Covenants is hereby amended to read as follows:

PREPARED BY AND RETURN TO:

PATRICIA K. FLETCHER, ESQ.
Patricia Kimball Fletcher, P.A.
Duane Morris LLP
200 South Biscayne Blvd., Suite 3410
Miami, Florida 33131

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Palm Beach County, Florida

SECOND AMENDMENT TO BAYWINDS CLUB COVENANTS

THIS SECOND AMENDMENT TO BAYWINDS CLUB COVENANTS ("Second Amendment") is made by Lennar Land Partners, a Florida general partnership ("Lennar").

RECITALS

A. Lennar recorded those certain Baywinds Club Covenants in Official Records Book 11658 at Page 113 of the Public Records of Palm Beach County, Florida ("Original Club Covenants") respecting the recreational facilities in the residential community in Palm Beach County, Florida known as Baywinds ("Baywinds").

B. Thereafter, the Original Club Covenants were amended by that certain First Amendment to Baywinds Club Covenants recorded in Official Records Book 13094, Page 218 of the Public Records of Palm Beach County, Florida (the "First Amendment"). The Original Club Covenants together with the First Amendment shall thereafter be referred to as the "Club Covenants".

C. Section 29 of the Original Club Covenants permits Lennar, as Club Owner, to amend the Original Club Covenants as it deems appropriate, without the joinder or consent of any person or entity whatsoever by the recording of an amendment to the Original Club Covenants in the Public Records.

D. Lennar desires to amend the Original Club Covenants as set forth herein.

NOW THEREFORE, Lennar hereby declares that every portion of Baywinds is to be held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions and restrictions hereinafter set forth.

Dorothea Hilken, Clerk

PROPERTY WITHDRAWN FROM THE CLUB COVENANTS

(BAYWINDS - COMMERCIAL PARCEL)

CONTAINING 15.00 ACRES MORE OR LESS

3. Capitalized Terms. All initially capitalized terms not defined herein shall have the meaning set forth in the Original Club Covenants, except that the following defined term is hereby modified:

"Club Covenants" shall mean the Original Club Covenants and this First Amendment, together with all amendments and modifications thereof.

4. Withdrawal of Property. The real property legally described on Exhibit 1 attached hereto and made a part hereof is hereby removed from Exhibit A of the Club Covenants and the definition of "Baywinds."

5. Covenant Running with the Land. The First Amendment is a covenant running with all of Baywinds, and shall be binding upon their successors and assigns.

IN WITNESS WHEREOF, the undersigned, being the Club Owner under the Club Covenants, has hereunto set its hand and seal this 16th day of Oct., 2001.

WITNESSES:

Kerry C. Hillary
Print Name: Kerry C. Hillary
Lisa Mentrow
Print Name: LISA MENTROW

LENNAR LAND PARTNERS

Florida general partnership

By: Lennar Homes, Inc., a Florida corporation, attorney in fact*

By: Doyle D. Dudley
Name: Doyle D. Dudley
Title: Vice President

{SEAL}

*pursuant to that certain Power of Attorney recorded in Official Records Book 10092 at page 423 in the Public Records of Palm Beach County, Florida

STATE OF FLORIDA)

COUNTY OF Palm Beach)

SS.:

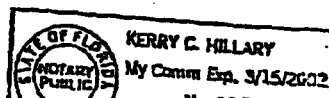
The foregoing instrument was acknowledged before me this 16th day of Oct., 2001 by Doyle D. Dudley as Vice President of Lennar Homes, Inc., as attorney in fact for Lennar Land Partners, a Florida general partnership, who is personally known to me or who has produced _____ as identification.

My commission expires: 3/15/02

Kerry C. Hillary
NOTARY PUBLIC, State of Florida

Print name: Kerry C. Hillary

MIAX74696.1





11/16/2001 08:12:57 29012507275

OR BK 12094 PG 0218

Palm Beach County, Florida

PREPARED BY AND RETURN TO:

PATRICIA K. FLETCHER, ESQ.
Patricia Kimball Fletcher, P.A.
Duane, Morris & Heckscher LLP
200 South Biscayne Blvd., Suite 3410
Miami, Florida 33131

FIRST AMENDMENT TO BAYWINDS CLUB COVENANTS

THIS FIRST AMENDMENT TO BAYWINDS CLUB COVENANTS ("First Amendment") is made by Lennar Land Partners, a Florida general partnership ("Lennar").

RECITALS

- A. Those certain Baywinds Club Covenants were recorded in Official Records Book 11658 at Page 113 of the Public Records of Palm Beach County, Florida ("Original Club Covenants") respecting the recreational facilities located in the residential community in Palm Beach County, Florida known as Baywinds ("Baywinds").
- B. Section 29 of the Original Club Covenants permits Lennar, as Club Owner, to amend the Original Club Covenants without the joinder or consent of any person or entity whatsoever by the recording of an amendment to the Original Club Covenants in the Public Records.
- C. Lennar desires to amend the Original Club Covenants as set forth herein.

NOW THEREFORE, Lennar hereby declares that every portion of Baywinds is to be held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions and restrictions hereinafter set forth.

1. Recitals. The foregoing Recitals are true and correct and are incorporated into and form a part of this First Amendment.
2. Conflicts. In the event that there is a conflict between this First Amendment and the Original Club Covenants, this First Amendment shall control. Whenever possible, this First Amendment and the Original Club Covenants shall be construed as a single document. Except as modified hereby, the Original Club Covenants shall remain in full force and effect.

**CONSENT
BANK ONE, NA, AS AGENT**

BANK ONE, NA, formerly known as the First National Bank of Chicago, as Agent does hereby join in the Baywinds Club Covenants, for the purpose of consenting as the holder of that Mortgage Deed and Security Agreement recorded in Official Records Book 10079 at Page 1550, Public Records of Palm Beach County, Florida.

IN WITNESS WHEREOF, the undersigned has executed this Consent on this ____ day of ____, 2000.

WITNESS:

BANK ONE, NA, formerly known as THE FIRST
NATIONAL BANK OF CHICAGO, AS AGENT

Print Name: _____

By: _____
Name: _____
Title: _____

Print Name: _____

STATE OF _____)

) SS.:

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of ____, 2000 by _____ of BANK ONE, NA, formerly known as the First National Bank of Chicago, as Agent, who is personally known to me or to me or who produced _____ as identification, on behalf of the corporation.

My commission expires:

NOTARY PUBLIC, State of _____

Print Name: _____

Baywinds Club Covenants
February 15, 2000

EXHIBIT B.

LEGAL DESCRIPTION

OF CLUB PROPERTY.

Tract R-1 and Tract R-2, as shown on the Plat of BAYWINDS R.P.D. PLAT NO. 2,
as recorded in Plat Book 85 at Page 148, in the Public Records of Palm Beach
County, Florida.

JOINDER

BAYWINDS COMMUNITY ASSOCIATION, INC. does hereby join in the document to which this Joinder is attached, and the terms thereof are and shall be binding upon the undersigned and its successors in title.

IN WITNESS WHEREOF, the undersigned has executed this Joinder on this _____ day of _____, 2000.

WITNESSES

[Signature]
Print Name: Gina Hogen

[Signature]
Print Name: Melissa Diaz

BAYWINDS COMMUNITY ASSOCIATION, INC.,
a Florida not-for-profit corporation

By: [Signature]
Name: Denise Garry
Title: President
Date: 2/22/00

(SEAL)

STATE OF FLORIDA

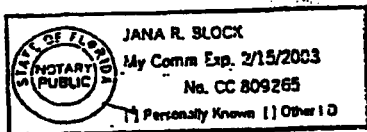
COUNTY OF Dade

)
) SS.:
)

The foregoing instrument was acknowledged before me this 22nd day of Feb., 2000, by Denise Garry as President of BAYWINDS COMMUNITY ASSOCIATION, INC., a Florida not-for-profit corporation, who is personally known to me or who produced N/A as identification, on behalf of the corporation.

My commission expires:

[Signature]
NOTARY PUBLIC, State of Florida
Print name: Jana R. Block



JOINDER

LENNAR HOMES, INC. does hereby join in the document to which this Joinder is attached, and the terms thereof are and shall be binding upon the undersigned and its successors in title.

IN WITNESS WHEREOF, the undersigned has executed this Joinder on this _____ day of _____, 2000.

WITNESSES:

LENNAR HOMES, INC., a Florida corporation

[Signature]
Print Name: Cina Heger

By: [Signature]
Name: Doyle D. Dudley
Title: Vice-President

[Signature]
Print Name: Melissa Diaz

STATE OF FLORIDA)

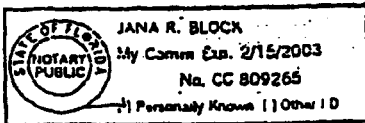
) SS.:

COUNTY OF Dade)

The foregoing instrument was acknowledged before me this 22nd day of Feb., 2000 by Doyle D. Dudley, as Vice President of Lennar Homes, Inc., a Florida corporation, who is personally known to me or who has produced N/A as identification.

My commission expires:

[Signature]
NOTARY PUBLIC, State of Florida
at Large
Print name: Jana R. Block



Association and Club Owner including, without limitation, all attorney's fees, paraprofessional fees and costs at trial and upon appeal, regardless of the outcome of such proceedings.

NOW THEREFORE, Lennar Land Partners, as Club Owner, has set its signature and seal below this _____ day of _____, 2000.

WITNESSES:

LENNAR LAND PARTNERS, a Florida general partnership

[Signature]
Print Name: Anna Hogen
[Signature]
Print Name: Melissa Diaz

By: Lennar Homes, Inc., a Florida corporation,
attorney in fact*

[Signature]
By: Doyle D. Dudley
Name: Doyle D. Dudley
Title: Vice-President

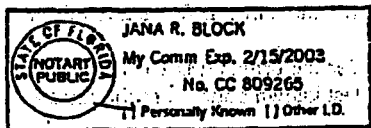
*pursuant to that certain Power of Attorney recorded in
Official Record book 10092 at page 423 in the Public
Records of Palm Beach County, Florida

STATE OF FLORIDA

COUNTY OF Dade

The foregoing instrument was acknowledged before me this 22nd day of Feb., 2000 by
Doyle D. Dudley, as Vice President of Lennar Homes, Inc., a Florida corporation, attorney in fact for Lennar Land
Partners, a Florida general partnership who is personally known to me or who has produced
N/A as identification.

My commission expires:



[Signature]
NOTARY PUBLIC, State of Florida
at Large
Print name: Jana R. Block

OPINION OR HAS MADE AN AFFIRMATIVE DECISION NOT TO SEEK SUCH AN OPINION. CLUB OWNER IS RELYING ON EACH OWNER CONFIRMING IN ADVANCE OF ACQUIRING A HOME THAT THESE CLUB COVENANTS ARE VALID, FAIR AND ENFORCEABLE. SUCH RELIANCE IS DETRIMENTAL TO CLUB OWNER. ACCORDINGLY, AN ESTOPPEL AND WAIVER EXISTS PROHIBITING EACH OWNER FROM TAKING THE POSITION THAT ANY PROVISION OF THESE CLUB COVENANTS ARE INVALID IN ANY RESPECT. AS A FURTHER MATERIAL INDUCEMENT FOR CLUB OWNER TO SUBJECT THE CLUB PROPERTY TO THESE CLUB COVENANTS, EACH OWNER DOES HEREBY RELEASE, WAIVE, DISCHARGE, COVENANT NOT TO SUE, ACQUIT, SATISFY AND FOREVER DISCHARGE CLUB OWNER, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS AND ITS AFFILIATES AND ASSIGNS FROM ANY AND ALL LIABILITY, CLAIMS, COUNTERCLAIMS, DEFENSES, ACTIONS, CAUSES OF ACTION, SUITS, CONTROVERSIES, AGREEMENTS, PROMISES AND DEMANDS WHATSOEVER IN LAW OR IN EQUITY WHICH AN OWNER MAY HAVE IN THE FUTURE, OR WHICH ANY PERSONAL REPRESENTATIVE, SUCCESSOR, HEIR OR ASSIGN OF OWNER HEREAFTER CAN, SHALL OR MAY HAVE AGAINST CLUB OWNER, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS, AND ITS AFFILIATES AND ASSIGNS, FOR, UPON OR BY REASON OF ANY MATTER, CAUSE OR THING WHATSOEVER RESPECTING THESE CLUB COVENANTS, OR THE EXHIBITS HERETO: THIS RELEASE AND WAIVER IS INTENDED TO BE AS BROAD AND INCLUSIVE AS PERMITTED BY THE LAWS OF THE STATE OF FLORIDA.

29. **Amendment.** Notwithstanding any other provision herein to the contrary, no amendment to these Club Covenants shall affect the rights of Developer or Club Owner unless such amendment receives the prior written consent of Developer or Club Owner, as applicable, which may be withheld for any reason whatsoever. No amendment shall alter the provisions of these Club Covenants benefitting Lenders without the prior approval of the Lender(s) enjoying the benefit of such provisions. No amendment shall be effective until it is recorded in the Public Records. Prior to the date that any third party owns the Club, Club Owner shall have the right to amend these Club Covenants as it deems appropriate, without the joinder or consent of any person or entity whatsoever. Club Owner's right to amend under this provision is to be construed as broadly as possible. By way of example, Club Owner may terminate these Club Covenants (and all rights and obligations hereunder) in the event of partial or full destruction of the Club. Further, Club Owner may elect, in Club Owner's sole and absolute discretion, to subject property outside of Baywinds to these Club Covenants by amendment recorded in the Public Records. Likewise, Club Owner may elect, in Club Owner sole and absolute discretion, to remove portions of Baywinds from the benefit and encumbrance of these Club Covenants by amendment recorded in the Public Records.

30. **Severability.** Invalidation of any of the provisions of these Club Covenants by judgment or court order shall in no way affect any other provision, and the remainder of these Club Covenants shall remain in full force and effect.

31. **Notices.** Any notice required to be sent to any person, firm, or entity under the provisions of these Club Covenants shall be deemed to have been properly sent when mailed, postpaid, to the last known address at the time of such mailing.

32. **Florida Statutes.** Whenever these Club Covenants refer to the Florida Statutes, they shall be deemed to refer to the Florida Statutes as they exist on the date the Club Covenants are recorded except to the extent provided otherwise as to any particular provision of the Florida Statutes.

33. **Headings.** The headings within these Club Covenants are for convenience only and shall not be used to limit or interpret the terms hereof.

34. **Association to Bear Legal Expenses.** In the event that there is any ambiguity or question regarding the provisions of these Club Covenants, Club Owner's determination of such matter shall be conclusive and binding. Therefore, and in order to ensure that the Owners and Association abide by Club Owner's determination, in the event that there is any dispute respecting the interpretation of these Club Covenants, the Purchase Option, the Mortgage, the Note, or any other aspect of the transfer of the Club to Association, Association shall bear all legal expenses of both

23. **Estoppel.** Association shall, from time to time, upon not less than ten (10) days' prior written notice from Club Owner, execute, acknowledge and deliver a written statement: (a) certifying that these Club Covenants are unmodified and in full force and effect (or, if modified, stating the nature of such modification, listing the instruments of modification, and certifying that these Club Covenants, as so modified, are in full force and effect) and the date to which the Club Charges are paid; and (b) acknowledging that there are not, to Association's knowledge, any uncured defaults by Association, Club Owner or Members with respect to these Club Covenants. Any such statement may be conclusively relied upon by any prospective purchaser of Club Owner's interest or mortgagee of Club Owner's interest or assignee of any mortgage upon Club Owner's interest in the Club. Association's failure to deliver such statement within such time shall be conclusive evidence: (1) that these Club Covenants are in full force and effect, without modification except as may be represented, in good faith, by Club Owner; and (2) that there are no uncured defaults; and (3) that the Club Charges have been paid as stated by Club Owner.

24. **No Waiver.** The failure of Club Owner in one or more instances to insist upon strict performance or observance of one or more of the Club Covenants or conditions hereof or to exercise any remedy, privilege or option herein conferred upon or reserved to Club Owner, shall not operate or be construed as a relinquishment or waiver of such covenant or condition or of the right to enforce the same or to exercise such privilege, option or remedy, but the same shall continue in full force and effect. The receipt by Club Owner of any payment required to be made by any Owner, or any part thereof, shall not be a waiver of any other payment then due, nor shall such receipt, though with knowledge of the breach of any covenant or condition hereof, operate as, or be deemed to be a waiver of such breach. No waiver of Club Owner (with respect to Association or a Member) shall be effective unless made by Club Owner in writing.

25. **Franchises and Concessions.** Club Owner may grant franchises or concessions to commercial concerns on all or part of the Club and shall be entitled to all income derived therefrom.

26. **Resolution of Disputes.** ASSOCIATION AND, BY ACCEPTANCE OF A DEED, EACH OWNER AGREES THAT THESE CLUB COVENANTS COMPRISE A VERY COMPLEX DOCUMENT. ACCORDINGLY, ASSOCIATION AND EACH OWNER AGREE THAT JUSTICE WILL BEST BE SERVED IF ALL DISPUTES RESPECTING THESE CLUB COVENANTS ARE HEARD BY A JUDGE, AND NOT A JURY. ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION, WITH RESPECT TO ANY ACTION, PROCEEDING, CLAIM, COUNTERCLAIM, OR CROSS CLAIM, WHETHER IN CONTRACT AND/OR IN TORT (REGARDLESS IF THE TORT ACTION IS PRESENTLY RECOGNIZED OR NOT), BASED ON, ARISING OUT OF, IN CONNECTION WITH OR IN ANY WAY RELATED TO THESE CLUB COVENANTS, INCLUDING ANY COURSE OF CONDUCT, COURSE OF DEALING, VERBAL OR WRITTEN STATEMENT, VALIDATION, PROTECTION, ENFORCEMENT ACTION OR OMISSION OF ANY PARTY, SHALL BE HEARD IN A COURT PROCEEDING BY A JUDGE, AND NOT A JURY. CLUB OWNER HEREBY SUGGESTS THAT EACH OWNER UNDERSTAND THE LEGAL CONSEQUENCES OF ACCEPTING A DEED TO A HOME.

27. **Venue.** EACH OWNER ACKNOWLEDGES REGARDLESS OF WHERE SUCH OWNER (i) EXECUTED A PURCHASE AND SALE AGREEMENT, (ii) RESIDES, (iii) OBTAINS FINANCING OR (iv) CLOSED ON A HOME, THESE CLUB COVENANTS LEGALLY AND FACTUALLY WERE EXECUTED IN PALM BEACH COUNTY, FLORIDA. CLUB OWNER HAS AN OFFICE IN PALM BEACH COUNTY, FLORIDA AND EACH HOME IS LOCATED IN PALM BEACH COUNTY, FLORIDA. ACCORDINGLY, AN IRREFUTABLE PRESUMPTION EXISTS THAT THE ONLY APPROPRIATE VENUE FOR THE RESOLUTION OF ANY DISPUTE LIES IN PALM BEACH COUNTY, FLORIDA. IN ADDITION TO THE FOREGOING, EACH OWNER, BUILDER AND CLUB OWNER AGREE THAT THE VENUE FOR RESOLUTION OF ANY DISPUTE LIES IN PALM BEACH COUNTY, FLORIDA.

28. **Release.** BEFORE ACCEPTING A DEED TO A HOME, EACH OWNER HAS AN OBLIGATION TO RETAIN AN ATTORNEY IN ORDER TO CONFIRM THE VALIDITY OF THESE CLUB COVENANTS. BY ACCEPTANCE OF A DEED TO A HOME, EACH OWNER ACKNOWLEDGES THAT HE OR SHE HAS SOUGHT (OR HAD TITLE OPTION TO SEEK) AND RECEIVED (OR DECLINED TO OBTAIN) SUCH AN

20.2. Failure to Pay. The failure by Association to make any payment required to be made hereunder to Club Owner within ten (10) days after the same is due.

20.3. Compliance with Declaration and these Club Covenants. The failure of Association to observe or perform any other covenant, condition or provision of the Declaration relating to the Club or these Club Covenants to be observed or performed by Association, unless the same is cured by Association within twenty (20) days after notice, provided, however, that notice shall not be required if the failure of Association shall be of such a nature as to expose Club Owner or the Club to irreparable injury or material and adverse risk.

20.4. Insolvency. The making by Association of any general assignment for the benefit of creditors, the filing by or against Association of a petition to have Association adjudged a bankrupt, or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in case of a petition filed against Association, the same is dismissed within thirty (30) days), the appointment of a trustee or receiver to take possession of substantially all of Association's assets, or the attachment, execution or other judicial seizure of substantially all or any material part of Association's assets.

21. Remedies. In the event of any such default or breach by Association, Club Owner may at any time thereafter, with or without notice or demand, and without limiting Club Owner in the exercise of any other right or remedy which Club Owner may have, at law or equity, exercise any one or more of the following additional remedies:

21.1. Terminate Association's Responsibilities. Club Owner may immediately terminate Association's ability to operate and manage the Club as Club Manager and may re-assume the sole right to operate and manage the Club. Upon receipt of such notice the license granted to Association to occupy the Club as Club Manager shall forthwith terminate, provided, however Association shall remain liable to Club Owner as hereinafter provided. Thereafter, all payments of Club Charges shall be made directly by the Owners, to Club Owner, or its designee.

21.2. Charge the Association Interest. In the case of any such default by Association all sums then due hereunder shall bear interest thereon at the Default Rate until paid.

21.3. Right to Add Costs to Club Operating Costs. All damages, costs, expenses, losses, liabilities and other amounts suffered by Club Owner due to a default by Association shall be, at the direction of Club Owner, be considered part of the Club Operating Costs. Club Owner may, but is not obligated to, cure any breach hereof by Association, the expense of which, together with interest at the Default Rate, shall be paid by Owners as part of the Club Charges, upon demand.

21.4. Right to Notify Owners. Club Owner may notify Owners that Club Charges are to be paid directly to Club Owner.

21.5. Remedies Cumulative. The specific remedies of Club Owner under the terms of these Club Covenants are cumulative and are not intended to be exclusive of any other remedies or means of redress to which it may be lawfully entitled in case of any breach or threatened breach by Association of any provisions of these Club Covenants. In addition to the other remedies provided in these Club Covenants, Club Owner shall be entitled to enjoin, without bond, the violation or attempted or threatened violation of any of the provisions of these Club Covenants or obtain specific performance of any such provisions. Association hereby stipulates that such violation or attempts or threatened violation constitutes irreparable injury to Club Owner.

22. Security for Association's Agreements. To further secure payment and performance of all of Association's obligations hereunder, Association gives, grants, pledges with and assigns to Club Owner a first lien and charge upon all furniture and fixtures, goods and chattels of Association, which may be brought or put on the Club. Association agrees that such lien for the payment of the charges may be enforced by distress, foreclosure or otherwise, at the option of Club Owner.

elects not to reconstruct the Club Facilities, Club Owner shall terminate these Club Covenants and the provisions of the Declaration relating to the Club by document recorded in the Public Records.

17. **Risk of Loss.** Club Owner shall not be liable for, and the Members assume all risks that may occur by reason of, any condition or occurrence, including, but not limited to, damage to the Club on account of casualty, water or the bursting or leaking of any pipes or waste water about the Club, or from any act of negligence of any other person, or fire, or hurricane, or other act of God, or from any cause whatsoever, occurring after the date of the recording of these Club Covenants. Neither Association nor any Owner shall be entitled to cancel these Club Covenants or any abatement in Club Charges on account of any such occurrence.

18. **Eminent Domain.** If, during the operation of these Club Covenants, an eminent domain proceeding is commenced affecting the Club, then in that event, the following conditions shall apply:

18.1. **Complete Taking.** If the whole or any material part of the Club is taken under the power of eminent domain, Club Owner may terminate these Club Covenants and the provisions of the Declaration relating to the Club by written notice given to Association, which notice shall be recorded in the Public Records. Should such notice be given, these Club Covenants and the provisions in the Declaration relating to the Club shall terminate. All damages awarded in relation to the taking shall be the sole property of Club Owner.

18.2. **Partial Taking.** Should a portion of the Club be taken in an eminent domain proceeding which requires the partial demolition of any of the improvements located on the Club so that Club Owner determines the taking is not a complete-taking, then, in such event, Club Owner shall have the option, to the extent legally possible, utilize a portion of the proceeds of such taking for the restoration, repair, or remodeling of the remaining improvements to the Club, or to terminate these Club Covenants as provided in Section 18.1 hereof. All damages awarded in relation to the taking shall be the sole property of Club Owner, and Club Owner shall determine what portion of such damages, if any, shall be applied to restoration, repair, or remodeling.

19. **Additional Indemnification of Club Owner.** Association and each Owner covenant and agree jointly and severally to indemnify, defend and hold harmless Developer and Club Owner, their respective officers, directors, shareholders, and any related persons or corporations and their employees, attorneys, agents, officers and directors from and against any and all claims, suits, actions, causes of action or damages arising from any personal injury, loss of life, or damage to property, sustained on or about the Common Areas, Club Property, or other property serving Association, and improvements thereon, or resulting from or arising out of activities or operations of Association or Owners, and from and against all costs, expenses, court costs, counsel fees, paraprofessional fees (including, but not limited to, all trial and appellate levels and whether or not suit be instituted), expenses and liabilities incurred or arising from any such claim, the investigation thereof, or the defense of any action or proceedings brought thereon, and from and against any orders judgments or decrees which may be entered relating thereto. In addition Association shall, and does hereby, indemnify and save harmless Club Owner from and against any and all claims, suits, actions, damages and/or causes of action arising for any personal injury, loss of life and/or damage to property sustained in or about the Club, by reason or as a result of Association's operation, management, or occupancy of the Club as Club Manager, and from and against any orders, judgments, and/or decrees which may be entered thereon, and from and against all costs, counsel fees, paraprofessional fee, expenses and liabilities incurred in and about the defense of any such claim and the investigation thereof. Association shall immediately give Club Owner notice in writing that the same are about to be incurred and Club Owner shall have the option to make the necessary investigation and employ, at the expense of Association, counsel of Club Owner's own selection for the defense of any such claims and expenses, etc. The indemnifications provided in this Section shall survive termination of these Club Covenants. The costs and expense of fulfilling this covenant of indemnification shall be Operating Costs to the extent such matters are not covered by insurance maintained by Association.

20. **Defaults.** The occurrence of any one or more of the following events shall constitute a material default and breach of these Club Covenants by Association:

20.1. **Abandonment.** The vacation or abandonment of the Club by Association or Owners.

14.6. Attorneys' Fees. Should any Member and/or guest bring suit against Club Owner or Club Manager or any of the Indemnified Parties for any claim or matter and fail to obtain judgment therein against such Indemnified Parties, the Member and/or guest shall be liable to such parties for all Losses, costs and expenses incurred by the Indemnified Parties in the defense of such suit, including attorney's fees and paraprofessional fees at trial and upon appeal.

14.7. Unrecorded Rules. Club Owner may adopt rules and regulations ("Rules and Regulations") from time to time. Such Rules and Regulations may not be recorded; therefore, each Owner and Tenant should request a copy of unrecorded Rules and Regulations from the Club and become familiar with the same. Such Rules and Regulations are in addition to the general restrictions set forth in this Section.

14.8. Waiver of Rules and Regulations. Club Owner may waive the application of any Rules and Regulations to one or more Owners, Tenants, guests, invitees, employees or agents in Club Owner's sole and absolute discretion. A waiver may be revoked at any time upon notice to affected Tenants and Owners.

15. Violation of the Rules and Regulations.

15.1. Basis For Suspension. The membership rights of a Member may be suspended by Club Owner if, in the sole judgment of Club Owner:

15.1.1. such person is not an Owner or a Tenant;

15.1.2. the Member violates one or more of these Rules and Regulations;

15.1.3. a guest or other person for whom a Member is responsible violates one or more of these Rules and Regulations;

15.1.4. an Owner fails to pay Club Charges in a proper and timely manner; or

15.1.5. a Member and/or guest has injured, harmed or threatened to injure or harm any person within the Club Facilities, or harmed, destroyed or stolen any personal property within the Club Facilities, whether belonging to a third party or to Club Owner.

15.2. Types of Suspension. Club Owner may restrict or suspend, for cause or causes described in the preceding Section, any Member's privileges to use any or all of the Club Facilities. By way of example, and not as a limitation, Club Owner may suspend the membership of a Tenant if such Tenant's Owner fails to pay Club Charges due in connection with a leased Home. In addition, Club Manager may suspend some membership rights while allowing a Member to continue to exercise other membership rights. For example, Club Manager may suspend the rights of a particular guest or Club Manager may prohibit a Member and his or her guest from using a portion of the Club Facilities. No Member whose membership privileges have been fully or partially suspended shall, on account of any such restriction or suspension, be entitled to any refund or abatement of Club Charges or any other fees. During the restriction or suspension, Club Charges shall continue to accrue and be payable each month. Under no circumstance will a Member be reinstated until all Club Charges and other amounts due to the Club are paid in full.

16. Destruction. In the event of the damage by partial or total destruction by fire, windstorm, or any other casualty for which insurance shall be payable, any insurance proceeds shall be paid to Club Owner. If Club Owner elects, in Club Owner's sole and absolute discretion, to reconstruct the Club Facilities, the insurance proceeds shall be available for the purpose of reconstruction or repair of the Club; provided, however, Club Owner shall have the right to change the design or facilities comprising the Club in its sole and absolute discretion. There shall be no abatement in payments of Club Charges, including the Club Fee, during casualty or reconstruction. The reconstruction or repair, when completed, shall, to the extent legally possible, restore the Club Facilities substantially to the condition in which they existed before the damage or destruction took place. After all reconstruction or repairs have been made, if there are any insurance proceeds left over, then and in that event, the excess shall be the sole property of Club Owner. If Club Owner

11. **Paramount Right of Association.** Association shall have the right to post all notices of its Board and member meetings and all notices required by the Florida Statutes at a designated location within the Club Facilities visible to all Club Members without charge.

12. **Attorney's Fees.** If at any time Club Owner must enforce any provision hereof, Club Owner shall be entitled to recover all of its reasonable costs and attorney's and paraprofessional fees at all levels, including appeals, collections and bankruptcy.

13. **Rights to Pay and Receive Reimbursement.** Club Owner and/or Association shall have the right, but not the obligation to pay any Club Charges, or Special Use Fees which are in default and which may or have become a lien or charge against any Home. If so paid, the party paying the same shall be subrogated to the enforcement rights with regard to the amounts due. Further, Club Owner and/or Association shall have the right, but not the obligation, to loan funds and pay insurance premiums, taxes or other items of costs on behalf of an Owner to protect its lien. The party advancing such funds shall be entitled to immediate reimbursement, on demand, from the Owner for such amounts so paid, plus interest thereon at the Applicable Rate, plus any costs of collection including, but not limited to, reasonable attorneys' and paraprofessional fees at all levels including appeals, collections and bankruptcy.

14. **General Restrictions.** Club Owner has adopted the following general restrictions governing the use of the Club. Each Member, guest and other person entitled to use the Club shall comply with following general restrictions:

14.1. **Responsibility for Personal Property and Persons.** Each Member assumes sole responsibility for the health, safety and welfare of such Member, his or her guests, and the personal property of all of the foregoing, and each Member shall not allow any of the foregoing to damage the Club or interfere with the rights of other Members hereunder.

14.2. **Cars and Personal Property.** The Club is not responsible for any loss or damage to any private property used, placed or stored on the Club Facilities. Without limiting the foregoing, any person parking a car within the Parking Areas assumes all risk of loss with respect to his or her car in the Parking Areas. Further, any person entering the Club Facilities assumes all risk of loss with respect to his or her equipment, jewelry or other possessions stored in the fitness center lockers, on bicycles, or within cars and wallets, books and clothing left in the pool areas.

14.3. **Activities.** Any Member, guest or other person who, in any manner, makes use of, or accepts the use of, any apparatus, appliance, facility, privilege or service whatsoever owned, leased or operated by the Club, or who engages in any contest, game, function, exercise, competition or other activity operated, organized, arranged or sponsored by the Club, either on or off the Club Facilities, shall do so at their own risk. Every Member shall be liable for any property damage and/or personal injury at the Club, or at any activity or function operated, organized, arranged or sponsored by the Club, caused by any Member or guest. No Member may use the Club Facilities for any club, society, party, religious, political, charitable, fraternal, civil, fund-raising or other purposes without the prior written consent of Club Owner, which consent may be withheld for any reason.

14.4. **Property Belonging to the Club.** Property or furniture belonging to the Club shall not be removed from the room in which it is placed or from the Club Facilities.

14.5. **Indemnification of Club Owner.** In addition, each Member and guest agrees to indemnify and hold harmless Club Owner and Club Manager, their officers, partners, agents, employees, affiliates, directors and attorneys (collectively, "Indemnified Parties") against all actions, injury, claims, loss, liability, damages, costs and expenses of any kind or nature whatsoever ("Losses") incurred by or asserted against any of the Indemnified Parties from and after the date hereof, whether direct, indirect, or consequential, as a result of or in any way related to such Member's membership, including, without limitation, use of the Club Facilities by Members and their guests, or the interpretation of these Club Covenants, and/or the Rules and Regulations and/or from any act or omission of the Club or of any of the Indemnified Parties. Losses shall include the deductible payable under any of the Club's insurance policies.

asbestos or asbestos containing material; (c) except for tanks installed by Club Owner, shall not locate, replace or remove or fill any underground storage tanks on the Club; (d) shall at all times be in compliance with all applicable federal, state, county and local statutes, laws and regulations concerning or related to environmental protection and regulation.

10.5.8. Liens. Association shall not subject the Club to, or permit the Club to be subject to, any lien, charge, cost or expense including, but not limited to, a construction lien as contemplated by the law of the State of Florida. Should any lien or claim of lien be filed, or should any suit or other judicial or quasi-judicial proceeding be instituted for which Club Owner or the Club may be encumbered, liable or accountable, then in that event Association shall be in default of these Club Covenants, unless within ten (10) days thereafter, Association shall furnish a bond, transferring the lien to bond, in compliance with law.

10.5.9. Alterations. In the event that Association is acting as Club Manager pursuant to Club Owner's written direction, Association will not make any alterations or changes in the Club without the prior written consent of Club Owner, which may be withheld or denied in Club Owner's sole discretion for any reason whatsoever.

10.5.10. Financial Responsibilities. At any time Association is acting as Club Manager pursuant to Club Owner's written direction, Association shall maintain financial record books, accounts and other records as concerns the Club, issue certificates of account to Owners, their mortgagees and lienors, as required.

10.5.11. Maintenance of Records. Association shall maintain books and records sufficient to describe its services hereunder in accordance with prevailing accounting standards to identify the source of all funds collected by it, and the disbursement thereof.

10.5.12. Budget. If Association is acting as Club Manager pursuant to Club Owner's written direction, Association shall adopt a budget which provides for funds needed for all expenses and reserves, including the Club Fees, within the fiscal year of the Club.

10.5.13. Collection. If Association is acting as Club Manager pursuant to Club Owner's written direction, Association shall collect all Club Charges and enforce, with all due diligence, the provisions of these Club Covenants relating thereto. The Club Charges due from each Owner may, at Association's discretion, be payable to such firm or entity as it shall direct. All sums due to Club Owner under the terms of these Club Covenants, if collected by Association, shall immediately be delivered, to Club Owner.

10.5.14. Special Use Fees. If Association is acting as Club Manager pursuant to Club Owner's written direction, Association shall make and collect Special Use Fees against Owners subject to the provisions of these Club Covenants.

10.5.15. Rules and Regulations. If Association is acting as Club Manager pursuant to Club Owner's written direction, Association shall promulgate, adopt and amend rules and regulations as it deems advisable, subject to the prior approval of Club Owner. Association shall also enforce such rules and regulations.

10.5.16. Insurance. If Association is acting as Club Manager pursuant to Club Owner's written direction, Association shall obtain all insurance required in connection with the Club in the form required by Club Owner, all of which shall name Club Owner as "Additional Insured." Club Owner shall have the right to approve every aspect of such insurance policies including, without limitation the underwriters.

10.5.17. Professionals. If Association is acting as Club Manager pursuant to Club Owner's written direction, Association shall retain and employ such professionals and other experts whose services may be reasonably required to effectively perform its duties and exercise its powers hereunder and to employ same on such basis as it deems most beneficial.

specific written directions of Club Owner. Association shall be obligated to accept such appointment without conditions or claim. During the time that Association acts as the Club Manager pursuant to Club Owner's written direction, Association shall have all powers and duties of Club Owner assigned by Club Owner in such written direction. No surrender of operation and management of the Club by Association shall be valid unless accepted by Club Owner in writing.

10.5. Association's Duties Upon Request by Club Owner. Association covenants throughout the term of these Club Covenants, and any renewals or extensions hereof, at the sole cost and expense of the Owners, to operate, manage, insure, maintain and take good care of the real property comprising the Club and landscaping and buildings and improvements now or at any time erected thereon and all apparatus, fixtures and building service equipment used or procured for use in connection with the operation of the Club, and to repair and maintain them in a first class condition, reasonable wear and tear excepted, to the extent that it is requested to do so in writing by Club Owner. At the written request of Club Owner, Association also covenants to keep the same in good order and condition, excepting reasonable wear and tear, and promptly make all necessary repairs, both to the interior and exterior thereto, including replacements or renewals when necessary, and all such repairs, replacements and renewals shall be at least equal in quality and class to the original work. In connection therewith, as and when requested by Club Owner, Association shall have, by way of illustration and not limitation, the following powers, obligations, and duties:

10.5.1. Reports. At the written direction of Club Owner, Association shall prepare monthly and annual reports detailing costs and expenses of the Club in the accounting format reasonably requested by Club Owner. Such reports shall be accompanied by any back-up invoices and documentation required by Club Owner, and shall include year to date totals if and to the extent required by Club Owner.

10.5.2. Hiring and Supervision. At the written direction of Club Owner, Association shall cause to be hired, paid and supervised, and/or discharged, all necessary persons, firms or corporations. Association shall maintain all required worker's compensation insurance.

10.5.3. Contracts. At the written direction of Club Owner, Association shall enter into contracts for all services necessary for the operation, maintenance, insurance, upkeep, repair, refurbishment, replacement and preservation of the Club. Each such contract shall not be binding on Club Owner and shall contain a provision that such contract can be terminated by Club Owner on thirty (30) days notice without cause.

10.5.4. Purchases. At the written direction of Club Owner, Association shall purchase equipment, tools, vehicles, appliances, goods, supplies and materials as may be necessary and/or appropriate.

10.5.5. Club Covenants Compliance. At the written direction of Club Owner, Association shall cause to be placed and kept in force and perform all obligations relating to all insurance required by the terms of these Club Covenants.

10.5.6. Compliance with Laws. At any time Association is acting as Club Manager pursuant to Club Owner's written direction, Association shall operate, maintain, and repair the Club so as to comply with, and suffer no default under, all applicable laws, statutes, ordinances, rules and regulations of all applicable governmental and quasi-governmental authorities, the Title Documents, insurance policies and/or guidelines, mortgages and/or encumbrances, relating to the Club or the use thereof now or hereafter in effect.

10.5.7. Hazardous Materials. Association: (a) shall not permit any activity to be conducted in, on or about the Club which would have the effect of polluting or in any way cause the Club to be detrimentally affected by pollutants (including elevated radon levels), toxic materials, petroleum oil and/or waste oil, or any "hazardous substance or waste." The Club shall not be used for the handling, storage, treatment, generation, transportation or disposal of pollutants, toxic materials, petroleum oil and/or waste oil, any hazardous substance or any hazardous waste, including, but not limited to, solid, liquid, gaseous or thermal irritant or contaminant, such as smoke, vapor, soot, fumes, acids, alkalis, chemicals (except for chemicals used for the pool and cleaning) or waste (including materials to be recycled, reconditioned or reclaimed); (b) shall not install, use or dispose of, on or incorporate into, the Club any

shall, in addition to all other rights reserved herein, be subrogated to all of the rights of the Lender. All amounts advanced on behalf of an Owner pursuant to this Section shall be added to Club Charges payable by such Owner with appropriate interest.

9.4. Acceleration. In the event of a default in the payment of any Club Charges and related fees and expenses, Club Owner may accelerate the Club Charges for the next ensuing twelve (12) month period, and for twelve (12) months from each subsequent delinquency.

9.5. Non-payment. If any Club Charges are not paid within ten (10) days after the due date, a late fee (to compensate Club Owner for administrative expenses due to late payment) of \$25.00 per month, or such greater amount established by Club Owner, together with interest on all amounts payable to Club Owner in an amount equal to the maximum rate allowable by law, per annum, beginning from the due date until paid in full, may be levied. Club Owner may, at any time thereafter, bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against the Home, or both. In the event of foreclosure, the defaulting Owner shall be required to pay a reasonable rental for the Home to Club Owner, and Club Owner shall be entitled, as a matter of right, to the appointment of a receiver to collect the same. No notice of default shall be required prior to foreclosure or institution of a suit to collect sums due hereunder. Club Owner shall not be required to bring such an action if it believes that the best interests of the Club would not be served by doing so. There shall be added to the Claim of Lien all costs expended in preserving the priority of the lien and all costs and expenses of collection, including attorneys' fees and paraprofessional fees, at all levels of proceedings, including appeals, collection and bankruptcy. Club Owner shall have all of the remedies provided herein and any others provided by law and such remedies shall be collective. The bringing of action shall not constitute an election or exclude the bringing of any other action. Liens for Club Charges under these Club Covenants shall be prior to the liens of Association.

9.6. Non-Use. No Owner may waive or otherwise escape liability for fees and charges provided for herein by non-use of, or the waiver of the right to use, Club or abandonment of a Home.

9.7. Suspension. Should a Owner not pay sums required hereunder, or otherwise default, for a period of thirty (30) days, Club Owner may, without reducing or terminating Owner's obligations hereunder, suspend Owner's (or in the event the Home is leased, the Tenant's) rights to use the Club until all fees and charges are paid current and/or the default is cured.

10. Control.

10.1. Control Prior to Transfer. The Club shall be under the complete supervision and control of Club Owner until Club Owner, in its sole and absolute discretion, delegates all or part of the right and duty to operate, manage and maintain the Club to a third party or Association as Club Manager, if ever, as hereinafter provided.

10.2. Club Manager. At any time, Club Owner may appoint a Club Manager to act as its agent. The Club Manager shall have whatever rights hereunder as are assigned in writing to it by Club Owner. Without limiting the foregoing, the Club Manager, if so agreed by Club Owner, may file liens for unpaid Club Charges against Homes, may enforce the Rules and Regulations of the Club, and prepare the Budget for the Club.

10.3. Designation of Manager. Club Owner shall have the right, but not the obligation, in its sole discretion, to: (i) appoint Association as the Club Manager; and (ii) relinquish and/or assign to Association some or all of the rights reserved to Club Owner herein. Association shall be obligated to accept such designation and/or assignment and fulfill the obligations relating thereto without any compensation whatsoever.

10.4. Management by Association. At any time, and from time to time, Club Owner may notify Association in writing that Association shall act as the Club Manager or assume some of the responsibilities of Club Owner (e.g., landscape maintenance). In such event, Club Owner shall provide Association with a specific written list of all of Association's obligations as Club Manager. Thereafter, Association shall have the right and obligation to operate, manage, insure and maintain the Club strictly in accordance with the provisions of these Club Covenants and the

Fees and other amounts due to Club Owner, and then to the payment of Assessments for Association purposes. Notwithstanding the foregoing, if such Owner thereafter makes additional payment to Association, such additional payments shall be applied to bring all Club Charges and Assessments for the first month of delinquency current before funds are applied to the next month's Club Charges.

8.7.5. Association Also Acting As Club Manager. During any period that Association is operating the Club as Club Manager at the direction of Club Owner pursuant to these Club Covenants, then Association is granted the conditional license to retain those portions of the Club Charges other than the Club Fee for the strict purpose of paying the Club Operating Costs.

9. Creation of the Lien and Personal Obligation.

9.1. Claim of Lien. Each Owner, by acceptance of a Deed or instrument of conveyance for the acquisition of title to a Home, shall be deemed to have covenanted and agreed that the Club Charges, Special Use Fees, and other amounts Club Owner permits an Owner to put on a charge account, if any, including, without limitation, the Club Fee, together with interest, late fees, costs and reasonable attorneys' and paraprofessional fees at all levels of proceedings including appeals, collection and bankruptcy, shall be a charge and continuing first lien in favor of Club Owner encumbering each Home and all personal property located thereon owned by the Owner. The lien is effective from and after recording a Claim of Lien in the Public Records stating the description of the Home, name of the Owner, and the amounts due as of that date, but shall relate back to the date these Club Covenants are recorded. The Claim of Lien shall also cover any additional amounts which accrue thereafter until satisfied. All unpaid Club Charges, Special Use Fees, and other amounts Club Owner permits an Owner to put on a charge account, if any, together with interest, late fees, costs and reasonable attorneys' and paraprofessional fees at all levels including appeals, collections and bankruptcy, and other costs and expenses provided for herein, shall be the personal obligation of the person who was the Owner as of the Home at the time when the charge or fee became due, as well as the Owner's heirs, devisees, personal representatives, successors or assigns. If a Home is leased, the Owner shall be liable hereunder notwithstanding any provision in his lease to the contrary. Such lien may be enforced by Association at Association's expense or at Club Owner's written discretion enforced by Club Owner, however, the claim of Club Owner for Club Charges is paramount to all claims of Association. Further, the lien created by this Section is superior to the lien of Association for Assessments.

9.2. Right to Designate Collection Agent. If Club Owner has requested at any time that Association act as Club Owner's collection agent, Club Owner may thereafter notify Association at any time in writing that it no longer wishes to have Association collect the Club Operating Costs, Special Use Fees, and/or the Club Fees. In such event, Club Owner shall collect the Club Operating Costs, Special Use Fees, and/or Club Fees. At any time thereafter, Club Owner may direct Association in writing to again collect such Club Operating Costs, Special Use Fees, and/or Club Fees. Club Owner's right to designate who shall collect Club Operating Costs, Special Use Fees, and/or Club Fees shall be perpetual.

9.3. Subordination of the Lien to Mortgages. The lien for Club Charges, Special Use Fees, and related fees and expenses shall be subordinate to a bona fide first mortgage held by a Lender on any Home, if the mortgage is recorded in the Public Records prior to the Claim of Lien. The Club Claim of Lien shall not be affected by any sale or transfer of a Home, except in the event of a sale or transfer of a Home pursuant to a foreclosure (or deed in lieu of foreclosure) of a bona fide first mortgage held by a Lender, in which event, the acquirer of title, its successors and assigns, shall not be liable for such sums secured by a Claim of Lien encumbering the Home or chargeable to the former Owner of the Home which became due prior to such sale or transfer. However, any such unpaid fees or charges for which such acquirer of title is not liable may be reallocated and assessed to all Owners (including such acquirer of title) as a part of the Club Operating Costs. Any sale or transfer pursuant to a foreclosure shall not relieve the Owner from liability for, nor the Home from the lien of any fees or charges made thereafter. Nothing herein contained shall be construed as releasing the party liable for any delinquent fees or charges from the payment thereof, or the enforcement of collection by means other than foreclosure. A Lender shall give written notice to Club Owner if the mortgage held by such Lender is in default. Club Owner shall have the right, but not the obligation, to cure such default within the time periods applicable to Owner. In the event Club Owner makes such payment on behalf of an Owner, Club Owner

Operating Costs. Notwithstanding anything herein to the contrary, Club Owner shall have the option to waive contributions to the Club Working Capital Fund in its sole and absolute discretion.

8. Determination of Club Operating Costs.

8.1. Fiscal Year. The fiscal year for the Club shall be the calendar year.

8.2. Adoption of Budget. Club Charges shall be established by the adoption of a projected operating budget (the "Budget"). Written notice of the amount and date of commencement thereof shall be given to each Owner in advance of the due date of the first installment thereof.

8.3. Adjustments If Budget Estimates Incorrect. In the event the estimate of Club Operating Costs for the year is, after the actual Club Operating Costs for that period is known, more or less than the actual Club Operating Costs, then the difference shall, at the election of Club Owner: (i) be added or subtracted, as the case may be, to the calculation for the next ensuing year; (ii) be immediately collected from the Owners by virtue of a special bill which shall be payable by each Owner within ten (10) days of mailing, or (iii) the remaining monthly Club Charges shall be adjusted to reflect such deficit or surplus.

8.4. No Right to Withhold Payment. Each Owner agrees that so long as such Owner does not pay more than the required amount of Club Charges, such Owner shall have no grounds upon which to object to either the method of payment or non-payment by other Owners of any sums due.

8.5. Reserves. The Budget may, at the election of Club Owner, include one or more reserve funds for the periodic maintenance, repair and replacement of improvements to the Club Facilities.

8.6. Statement of Account Status. Upon demand, there shall be furnished to an Owner a certificate in writing setting forth whether their Club Charges have been paid and/or the amount which is due as of any date. As to parties (other than Owners) who, without knowledge of error, rely on the certificate, the certificate shall be conclusive evidence of the amount of any charges therein stated.

8.7. Collection.

8.7.1. Association's Collection Responsibilities. If directed in writing by Club Owner, Association or a Neighborhood Association, shall collect the Club Charges, Special Use Fees, and any other amounts due to Club Owner at the same time it collects Assessments from the Owners. Upon the due date, Association or a Neighborhood Association shall be deemed to hold the same in trust for Club Owner and for the payments required hereby, and shall immediately forward all amounts due for Homes closed to Club Owner, together with a record of which Owners did, and did not pay.

8.7.2. Record Keeping. If directed in writing by Club Owner, Association shall use special computer software or accounting practices in connection with Association's record keeping responsibilities respecting Club Charges, Special Use Fees, and other amounts due to Club Owner. By way of example, Club Owner may require information on computer disk prepared using a specific type of software.

8.7.3. Diligence. If Club Owner directs Association to collect Club Charges, Association shall diligently and at Association's expense (to the extent not otherwise payable by a delinquent Owner) enforce collection of all delinquencies including enforcement of all liens in the name of Club Owner.

8.7.4. Application of Funds. Notwithstanding anything to the contrary contained in the Declaration, by its joinder in these Club Covenants, Association agrees that in the event that Club Owner directs Association to collect Club Charges, and Association collects Club Charges and Assessments from a particular Owner for any month (whether or not those funds are designated as payment of Club Charges or Assessments), those funds shall be first allocated to the payment of Club Fees, then to the payment of Club Operating Costs, then to the payment of Special Use

6.8. Club Owner's Obligation. Under no circumstances shall Club Owner or Developer be required to pay Club Charges. To the extent that Club Owner elects, in Club Owner's sole and absolute discretion, to base the annual budget on a number of Homes greater than those actually in existence within Baywinds, Club Owner agrees to pay the difference, if any, between actual Club Operating Costs and Club Charges paid by Owners, if any.

6.9. Special Use Fees. Club Owner shall have the right to establish from time to time, by resolution, rule or regulation, or by delegation to the Club Manager, specific charges, ticket, service and/or use fees and charges ("Special Use Fees"), for which one or more Owners (but less than all Owners) are subject, such as, costs of special services or facilities provided to a Owner relating to the special use of the Club or tickets for shows, special events, or performances held in the Club Facilities, which are paid initially by Club Owner. Special Use Fees shall be payable at such time or time(s) as determined by Club Owner.

6.10. Additional Club Charges. If an Owner, his or her guests, invitees, licensees, agents, servants or employees do anything which increases the cost of maintaining or operating the Club, or cause damage to any part of the Club, Club Owner may levy additional Club Charges against such Owner in the amount necessary to pay such increased cost or repair such damage.

6.11. Commencement of First Charges. The obligation to pay Club Charges, including, without limitation, the Club Fee, shall commence as to each Owner on the day of the conveyance of title of a Home to a Owner from Developer or a Builder. Notwithstanding the foregoing, no Owner shall be obligated to pay Club Charges until the first day of the calendar month upon which any portion of the Club Facilities can be used by Owners (e.g., upon issuance of a temporary Certificate of Occupancy for any structure forming part of the Club Facilities or completion of a swimming pool).

6.12. Time Is of Essence. Faithful payment of the sums due, and performance of the other obligations hereunder, at the times stated, shall be of the essence.

6.13. Obligation to Pay Real Estate Taxes and Other Expenses on Homes. Each Owner shall pay all taxes and obligations relating to his or her Home which if not paid, could become a lien against the Home which is superior to the lien for Club Charges created by these Club Covenants. Although a lien for Assessments payable to Association is inferior to the lien of Club Owner (regardless of when the lien for Assessments is filed in the Public Records), each Owner agrees to pay all Assessments when due. Upon failure of an Owner to pay the taxes, obligations and Assessments under/by required this Section, Club Owner may (but is not obligated to) pay the same and add the amount advanced to the Club Charges payable by such Owner.

6.14. Initial Budget. The initial budget prepared by Club Owner is not based on historical operating figures and is not a contractual statement or guaranty of actual Club Charges. It is not intended that any third party rely on any budget in electing to purchase a Home. The figures shown in the initial budget are based on good faith analysis; therefore, it is likely that the actual budget for the Club may be different once historical figures are known. Projections in budgets are an effort to provide some information regarding future Club Operating Costs. Budgets may not take inflation into account.

6.15. Change In Terms of Offer. Club Owner may provide that some Owners pay Club Fees on a different basis than other Owners by recording a supplement or amendment to these Club Covenants with respect to one or more Homes. No Owner shall have the right to object to any other Owner paying greater or lesser Club Fees so long as the Club Fee applicable to any particular Home is in accordance with the Club Covenants.

7. Working Capital Fund. There shall be collected from each Owner purchasing a Home from Developer or a Builder at the time of closing a working capital contribution ("Club Working Capital Fund") in the amount equal to two (2) months of Club Charges (as projected by Club Owner if unknown) or otherwise by Club Owner. Each Owner's contribution to the Club Working Capital Fund shall be transferred to Club Owner at that time. Club Owner shall be entitled to keep such funds, and shall not be required to account for the same. Contributions may be used and applied by Club Owner as it deems necessary in its sole and absolute discretion including, without limitation, to reduce Club

reserves the right to change the payment period from time to time (e.g., to require payment on a quarterly basis). Notwithstanding the foregoing, Club Owner may require an Owner or all Owners to pay Club Charges on an annual or other basis, in advance, based on prior payment history or other financial concerns, in Club Owner's sole discretion.

6.1. **Club Operating Costs.** Each Owner agrees to pay and discharge, in a timely fashion when due, its pro rata portion (as hereinafter set forth) of the Club Operating Costs. The Owners shall collectively bear all expenses associated with the Club so that Club Owner shall receive the Club Fees without deduction of expenses or charges in respect of the Club. Commencing on the first day of the period covered by the annual budget, and until the adoption of the next annual budget, the Club Operating Costs shall be allocated so that each Owner shall pay his or her pro rata portion of Club Operating Costs based upon a fraction, the numerator of which is one (1) and the denominator of which is (i) the total number of Homes in Baywinds conveyed to Owners or (ii) any greater number determined by Club Owner from time to time. Club Owner, in its sole and absolute discretion, may change the denominator from time to time. Under no circumstances will the denominator be less than the number of Homes owned by Owners other than Developer as of September 30 of the prior fiscal year.

6.2. **Club Fee.** Each Owner of any Home within Baywinds shall pay in advance on the first day of each month (or other payment period designated by Club Owner), without setoff or deduction, to Club Owner, or its designee, the Club Fee (the "Club Fee") of:

\$24 Dollars per month until December 31, 2000;
\$24 Dollars per month from January 1, 2001 until December 31, 2001;
\$26 Dollars per month from January 1, 2002 until December 31, 2002;
\$28 Dollars per month from January 1, 2003 until December 31, 2003;
\$30 Dollars per month from January 1, 2004 until December 31, 2004;
\$32 Dollars per month from January 1, 2005 until December 31, 2005;
\$34 Dollars per month from January 1, 2006 until December 31, 2006;
\$36 Dollars per month from January 1, 2007 until December 31, 2007;
\$40 Dollars per month from January 1, 2008 until December 31, 2008;
\$44 Dollars per month from January 1, 2009 until December 31, 2009;
\$48 Dollars per month from January 1, 2010 until December 31, 2010;
\$52 Dollars per month from January 1, 2011 until December 31, 2011;
\$56 Dollars per month from January 1, 2012 until December 31, 2012.

Each year thereafter the monthly Club Fee shall increase by Four Dollars (\$4.00) per year. No Club Fee shall be payable at such time, if ever, as Association becomes Club Owner.

6.3. **Taxes.** In addition to the Club Fee, the Owner's prorata share of Club Operating Costs, Special Use Fees (if any) and additional Club Charges (if any), each Owner shall pay all applicable sales, use or similar taxes now or thereafter imposed on the Club Fee, Club Operating Costs, Special Use Fees (if any) and Club Charges (if any).

6.4. **Builders.** Builders shall have no membership rights relative to the Club. Upon conveyance of a Home from a Builder to an Owner, the Owner shall pay Club Charges on the Home owned by such Owner.

6.5. **Perpetual.** Each Owner's obligation to pay Club Charges shall be perpetual regardless of whether such Home is occupied, destroyed renovated, replaced, rebuilt or leased.

6.6. **Individual Homes (Single Family Residences).** Owners of individual Homes (whether attached or detached Homes) shall pay Club Charges for one membership per month per Home. If an Owner owns more than one Home, Club Charges are payable for each and every Home owned by such Owner.

6.7. **Excuse or Postponement.** Club Owner may excuse or postpone Club Charges in its sole and absolute discretion.

5.3.2.1.2. Amount. The amount of the Note shall be the Club Purchase Price.

5.3.2.1.3. Terms. From and after the date of the Note, Association shall pay to Club Owner monthly in arrears on the first day of each and every calendar month interest on the principal sum outstanding under the Note at the Applicable Rate, unless the Default Rate shall be applicable. In addition, Association shall pay a portion of the principal sum secured by the Note that will amortize the entire principal sum over the term of the loan, with the final payment of principal, and all accrued and unpaid interest, due on the Maturity Date. Association shall pay Club Owner a late charge of five percent (5%) of any periodic interest payment not received by Club Owner within ten (10) days after the installment is due. This late charge is to cover Club Owner's administrative costs in processing each late payment. During the period of any default under the terms of the Note, the Mortgage, or any other document securing the Note, the Default Rate shall be applicable to the entire indebtedness then outstanding under the Note. The Note may be prepaid in full or in part at any time without notice, premium, or penalty. All payments received by Club Owner, including any partial payments permitted hereunder, shall be applied as follows: first, to the payment of fees and other charges then due or payable hereunder or under the Mortgage or other documents securing the Note; second, to any late payment charges which remain unpaid; third, to the payment of interest; fourth, to accrued and unpaid interest; and fifth, to the reduction of the outstanding principal balance.

5.3.2.2. Mortgage. Association shall execute the Mortgage. The Mortgage shall be in the form used for commercial transactions of comparable size as determined by Club Owner in its sole and absolute discretion. It shall require that Association (i) escrow tax and insurance payments on a monthly basis with Club Owner in a non-interest bearing account; (ii) provide Club Owner with monthly and annual operating statements, annual financial statements, and other financial information (e.g., the Budget); (iii) maintain the Club in a first class condition; and (iv) insure the Club for full replacement value; and (v) provide rental insurance and liability insurance in such amounts necessary to fully protect the mortgagee under the Mortgage.

5.3.3. Nature of Transfer. The conveyance shall be subject to easements, restrictions, reservations, conditions, limitations and declarations of record, real estate taxes for the year of conveyance, zoning, land use regulations and survey matters. Association shall be deemed to have assumed and agreed to pay all continuing obligations and service and similar contracts relating to the ownership, operation, maintenance and administration of the Club. Association shall, and does hereby, indemnify and hold Club Owner harmless on account thereof. Association shall be obligated to accept such conveyance without setoff, condition, or qualification of any nature. The Club, personal property and equipment thereon and appurtenances thereto shall be conveyed in "as is, where is" condition WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, IN FACT OR BY LAW, AS TO THE CONDITION, FITNESS OR MERCHANTABILITY OF BEING CONVEYED.

5.3.4. Early Offer to Purchase by Association. If Association wishes to exercise the Purchase Option prior to the Option Date, based upon a decision of the majority of the Board of the Association, the Board shall give notice to Club Owner in the manner specified in Section 5.3 above without the joinder or approval of any Owner or any other person, and within thirty (30) days of receipt thereof, Club Owner will inform the Board of the price which is acceptable to Club Owner as of the date of such notice, which price shall be set in Club Owner's sole discretion and may be different from the Club Purchase Price. If such price is acceptable to the Board, or if Club Owner and the Board negotiate a mutually acceptable price which a majority of the Board of the Association agrees to, the transfer of the Club and payment therefor shall proceed as otherwise provided in this Section 5 without the joinder or approval of any Owner or any other person. The agreed upon price shall be deemed the Club Purchase Price with respect this Section 5. Club Owner shall have the right to refuse the early offer in its sole discretion.

5.4. Once Association becomes Club Owner pursuant to Sections 5.2 or 5.3 hereof, then such section shall be of no further force and effect.

6. Club Charges. In consideration of the construction and providing for use of the Club by the Owners, each Owner by acceptance of a deed to a Home shall be deemed to have specifically covenanted and agreed to pay all Club Charges which are set forth herein. Club Owner presently intends to collect Club Charges on a monthly basis but

5.2. Option of Club Owner. In Club Owner's sole discretion, Club Owner shall have the option at any time to transfer the Club to Association so that it will be under the complete ownership of the Owners.

5.3. Association's Option to Purchase the Club. Five (5) years from the Community Completion Date (the "Option Date"), Association shall have the option to purchase the Club from Club Owner (the "Purchase Option") for the Club Purchase Price. This Purchase Option may be exercised by a decision of the majority of the Board of Association, without the joinder or approval of any Owner or any other person. Such Purchase Option shall be exercised by written notice (the "Option Notice") to Club Owner signed by a majority of the Board, which Option Notice shall be delivered by professional overnight courier to Club Owner at the following address (or such other address as may be designated by Club Owner from time to time by amendment to these Club Covenants):

Lennar Land Partners
c/o Lennar Homes, Inc.
8190 State Road 84
Davie, Florida 33324
Attention: Regional President--
South Florida Region

with copy to:

Lennar Land Partners
c/o Lennar Homes, Inc.
12230 Forest Hill Boulevard, #150
Wellington, Florida 33414
Attention: Division President

The Option Notice shall be irrevocable once signed by a majority of the Board. Club Owner shall convey the Club to Association within sixty (60) days' of Club Owner's receipt of the Option Notice.

5.3.1. Documentation of Transfer. At the time that the Club is transferred to Association, Club Owner shall be obligated to deliver the following: a special warranty deed for the real property comprising the Club, a special bill of sale respecting the personal property comprising the Club, an owner's title insurance policy respecting the Club, and all affidavits and other documents required by the title insurance company to effect the transfer of the Club. At the time of the transfer of the Club to Association as a result of the exercise of the Purchase Option, the Owners will no longer be obligated to pay the Club Fees, however, Association shall either (i) be pay the Club Purchase Price in cash or by Federal wire out of its own funds, or (ii) obtain financing with a third party lender, the costs thereof shall be Operating Costs of the Association, or (iii) if Association is unable to obtain third party financing, execute and deliver to Club Owner a purchase money note in the amount of the Club Purchase Price (the "Note"), a purchase money mortgage (the "Mortgage"), and a Security Agreement and UCC Financing Statements (state and local) and each Owner shall be obligated to pay his or her pro rata share of the Club Purchase Price and, if applicable, principal, interest and other amounts due in connection with such Note and Mortgage. The Club Purchase Price and, if applicable, the payments due pursuant to the Note and Mortgage, or payment due to a third party lender, shall be deemed part of the Operating Costs of Association, and part of the Assessments payable by the Owners.

5.3.2. Payment. If Association is unable to pay the Club Purchase Price in cash or by wire transfer out of its own funds or with a third party loan, Association shall notify Club Owner. If Club Owner determines that Association does not have adequate funds to pay the Purchase Price and no third party financing is available, then Association shall comply with the following prior to or upon transfer of the Club to Association:

5.3.2.1. Note.

5.3.2.1.1. Form. Association shall execute the Note. The Note shall be in the form used for commercial transactions of comparable size as determined by Club Owner in its sole and absolute discretion.

3.4. **Changes.** Club Owner reserves the absolute right to, from time to time, alter or change the Club, including construction of additional Club Facilities and/or the removal or modification thereof, at any time.

3.5. **Commercial Space.** Club Owner anticipates that portions of the Club Facilities may include a sales office, management office, retail space and/or other commercial space as Club Owner may deem appropriate in Club Owner's sole and absolute discretion. Club Owner may permit Members to access to any commercial facilities at Club Owner's sole and absolute discretion. Club Owner may grant leases, franchises, licenses or concessions to commercial concerns on all or part of the Club. If a lease, franchise, license or concession agreement permits continuing use of the Club Facilities by any one other than Club Owner or Members, then Club Owner shall require such other user(s) to pay a fair and reasonable share of the Club Operating Costs as determined by Club Owner in its sole and absolute discretion. Club Owner shall have no duty to account for any rents, fees or payments from third parties for the right to occupy and/or lease such commercial space; all of such rents, fees and payments, if any, shall be the sole property of Club Owner and shall not offset or reduce the Club Charges payable by Owners.

4. **Persons Entitled to Use the Club.**

4.1. **Rights of Members.** Each Member and his or her guest shall have such non-exclusive rights and privileges as shall from time to time be granted by Club Owner but these rights and privileges shall always include the following:

a. Use of any room or facility within the Club (which is not being used as an office, management office, or sales area) upon the payment of the established fees and costs thereof, subject to available capacity;

b. Use of the fitness center and swimming pool;

c. The right to participate in and attend all social events for Members (unless an event is limited to a specific interest group or organization authorized by Club Owner) upon the payment of the established fees and costs thereof, if any, and subject to the available capacity of the event.

If a Home is owned by a corporation, trust or other legal entity, or is owned by more than one family, then the Owner(s) collectively shall designate the person who will be the Member of the Club with respect to such Home. Members shall have no right to access the commercial space comprising part of the Club Facilities, or portions of the Club Property leased or licensed to third parties or Members, except as and when permitted by Club Owner.

4.2. **Use by Persons Other than Owners and Tenants.** Club Owner has the right at any and all times, and from time to time, to make the Club available to individuals, persons, firms or corporations other than Members, as it deems appropriate. Club Owner shall establish the fees to be paid by any person using the Club who is not a Member. The granting of such rights shall not invalidate these Club Covenants, reduce or abate any Owner's obligations to pay Club Charges pursuant to these Club Covenants, or give any Owner the right to avoid any of the provisions of these Club Covenants.

4.3. **Subordination.** These Club Covenants and the rights of Members to use the Club are and shall be subject and subordinate to: (a) any ground lease, mortgage, deed of trust, or other encumbrance and any renewals, modifications and extensions thereof, now or hereafter placed on the Club by Club Owner; and (b) easements, restrictions, limitations, conditions of record, the Title Documents and other conditions of governmental authorities. This provision shall be self-operative. Association, in its own name and, as agent for all Owners, shall sign any documents confirming the subordination provided herein promptly upon request of Club Owner.

5. **Ownership of the Club.**

5.1. **Transfer of Club.** Club Owner may sell, encumber or convey the Club to any person or entity in its sole and absolute discretion at any time.

2.9. Non-Exclusive License. The provisions of these Club Covenants do not grant any ownership rights in the Club in favor of Association or Members but, rather, grant a non-exclusive license to use the Club subject to full compliance with all obligations imposed by these Club Covenants.

3. Club Facilities.

3.1. Club Property. Club Owner presently owns all of the real property comprising Baywinds, including the Club Property. The Club Property may be expanded to include additional property in Club Owner's sole and absolute discretion. Likewise, Club Owner may elect to remove portions of real property from the definition of Club Property by amendment to these Club Covenants; provided, however, the Club Property shall always include a swimming pool and related facilities. Such additions and deletions, while not causing an increase or decrease in the Club Fees payable with respect to each Home, may cause an increase or decrease in Club Operating Costs.

3.2. Club Facilities. Club Owner intends to construct the Club Facilities on the Club Property which will be and shall remain the property of Club Owner, subject only to the provisions hereof. Club Owner has the right to unilaterally, and without the joinder of any party whatsoever, add to, alter, modify and amend the Club Facilities at any time. Such alterations, modifications and amendments may cause an increase or decrease in Club Operating Costs.

3.3. Construction of the Club. Club Owner will construct the Club Facilities at its sole cost and expense. Club Owner shall be the sole judge as to the plans, size, design, location, completion, schedule, materials, equipment, size, and contents of the Club Facilities. Club Owner shall have the unequivocal right to:

3.3.1. develop, construct and reconstruct, in whole or in part, the Club and related improvements within Baywinds, and make any additions, alterations, improvements, or changes thereto;

3.3.2. without the payment of rent and without payment of utilities or any other part of the Club Operating Costs, maintain leasing and/or sales offices (for sales and resales of Homes), general offices, management office(s), and construction operations on the Club Property including, without limitation, displays, counters, meeting rooms, and facilities for the sales and re-sales of Homes;

3.3.3. place, erect, and/or construct portable, temporary, or accessory buildings or structures upon the Club Property for sales, management, construction storage, or other purposes;

3.3.4. temporarily deposit, dump or accumulate materials, trash, refuse and rubbish on the Club Property in connection with the development or construction of any of the Club or any improvements located within Baywinds;

3.3.5. post, display, inscribe or affix to the exterior of the Club and the Club Property, signs and other materials used in developing, constructing, selling, or promoting the sale of portions of Baywinds, including, without limitation, the sale of Parcels and Homes subject only to the Title Documents;

3.3.6. conduct whatever commercial activities within the Club deemed necessary, profitable and/or appropriate by Club Owner;

3.3.7. develop, operate and maintain the Club as deemed necessary, in its sole and absolute discretion;

3.3.8. excavate fill from any lakes or waterways within and/or contiguous to the Club by dredge or dragline, store fill within the Club Property, and remove and/or sell excess fill; and grow or store plants and trees within, or contiguous to, the Club Property and use and/or sell excess plants and trees; and

3.3.9. all activities which, in the sole opinion of Club Owner, are necessary for the development and sale of the Club or any lands or improvements therein.

"Special Use Fees" shall have the meaning set forth in Section 6.9 hereof.

"Tenant" shall mean the lessee named in any written lease respecting a Home who is legally entitled to possession of any rental Home within Baywinds. If a lease names more than one person as Tenant, such Tenants shall designate to Club Owner in writing themselves as a Tenant for membership purposes (a maximum of two (2) persons can be Members). An Owner and Tenant shall be jointly and severally liable for all Club Charges.

"Title Documents" shall have the meaning set forth in the Declaration.

All other initially capitalized terms not defined herein, shall have the meanings set forth in the Declaration.

2. Benefits of Club. Association and each Owner, by acceptance of title to a Home, ratify and confirm these Club Covenants and agree as follows:

2.1. Term. The terms of these Club Covenants shall be covenants running with Baywinds in perpetuity.

2.2. Covenant Running with the Land. Every portion of Baywinds which can be improved with a Home shall be burdened with the payment of Club Charges. These Club Covenants including, without limitation, the obligation to pay Club Charges, shall run with the land. Every Owner, by acceptance of a Deed to any Home, shall automatically assume and agree to pay all Club Charges which shall be due and payable as of the date of such Deed and which shall become due and payable thereafter on account of the membership in the Club pertaining to the property belonging to such Owner.

2.3. Obligation to Reference in Deeds. The grantor of any portion of Baywinds hereby agrees to include in any Deed a statement that such Deed is subject to the terms of these Club Covenants.

2.4. Value. By acceptance of a Deed, each grantee of any portion of Baywinds upon which a Home may be (or has been) constructed hereby joins in the execution of these Club Covenants for the purpose of binding himself/herself, his/her successors in title and assigns to the provisions hereof and expressly acknowledges that the automatic membership in the Club granted to Owners and Tenants renders ownership of Baywinds and any part thereof more valuable than it would be otherwise.

2.5. Material Consideration. All persons who shall become Owners of any portion of Baywinds acknowledge that the provisions and enforceability of these Club Covenants were a material consideration in the initial conveyance by Developer of such real property to the Owner (or his/her predecessor in title) and that Developer would not have made such conveyance had these Club Covenants not been included and enforceable as provided for herein. Each Owner acknowledges that Club Owner is initially investing substantial sums of money and time in developing the Club Facilities. No Owner shall object to Club Owner receiving a pecuniary benefit from the Club so long as each Owner does not pay Club Fees in excess of the amounts provided herein.

2.6. Best Interests. It is in the best interest of each Owner, for Baywinds as a whole, and for property values therein, to provide for the Club to be located within Baywinds.

2.7. Product Purchased. There were significant other housing opportunities available to each Owner in the general location of Baywinds. The Home, and rights to utilize the Club, were material in each Owner's decision to purchase a Home in Baywinds and were, for the purposes of these Club Covenants, a "single product." Each Owner understands that the Club is an integral part of Baywinds.

2.8. Disclosure. Full disclosure of the nature of the Club and obligations associated therewith was made to each Owner prior to that Owner executing a contract to purchase a Home and each Owner has, or was afforded the opportunity to, consult with an attorney.

shall not affect the status of a Home, or the obligation of Owner to pay Club Charges with respect to such Home. The term "Home" includes any interest in land, improvements, or other property appurtenant to the Home.

"Lender" shall mean (i) the institutional and licensed holder of a first mortgage encumbering a Home or (ii) Developer and its affiliates, to the extent Developer or its affiliates finances the purchase of a Home initially or by assignment of an existing mortgage.

"Lennar" shall mean Lennar Land Partners, a Florida general partnership and its successors or assigns. Although not obligated to do so, Lennar may identify its successors or assigns by an amendment to these Club Covenants.

"Maturity Date" shall mean 26 years from the date the Note is executed.

"Member" shall mean every Owner who resides in the Home (other than an Owner who has leased his or her Home to Tenant) and Tenant; provided, however, for the purposes of Membership, there shall be a maximum of two (2) residents (Owner or Tenant) per Home who can be a Member. A person shall continue to be a Member until he or she ceases to be an Owner, or ceases to be a Tenant legally entitled to possession of a rental Home. Each Member shall be obligated to provide Club Owner with proof of residency upon Club Owner's request for the same.

"Note" shall have the meaning set forth in Section 5.3.2.1 hereof.

"Option Notice" shall have the meaning set forth in Section 5.3 hereof.

"Owner" shall mean the record owner (whether one or more persons or entities) of fee simple title to any Home. The term "Owner" shall not include Developer, Club Owner, a Builder or a Lender. Once an Owner leases the Home, only the Tenant shall be entitled to exercise the privileges of a Member with respect to such Home; however, Club Owner and Tenant shall be jointly and severally liable for all Club Charges.

"Parcel" shall mean a platted or unplatted lot, tract, unit or other subdivision of real property upon which a Home has been, or will be, constructed. Once improved, the term Parcel shall include all improvements thereon and appurtenances thereto. The term Parcel, as used herein, may include more than one Home.

"Parking Areas" shall mean all areas designated for parking within the Club Facilities.

"Prime Rate" shall mean the prime rate (or base rate) reported in the "Money Rates" column or section of The Wall Street Journal published on the second Business Day of the month preceding the month in which a payment of interest and/or principal is due under the Note, as having been the rate in effect for corporate loans at large U.S. money center commercial banks (whether or not such rate has actually been charged by any such bank) as of the first calendar day of such month for which such rate is published. In the event The Wall Street Journal ceases publication of the prime rate, then "Prime Rate" shall mean the prime rate (or base rate) announced by Citibank, N.A., New York, New York (whether or not such rate has actually been charged by such bank) in effect on the first calendar day of such month. In the event such bank discontinues the practice of announcing the "prime rate", the term "Prime Rate" shall mean the highest rate charged by such bank as on the first calendar day of such month on short-term, unsecured loans to its most creditworthy large corporate borrowers. In the event The Wall Street Journal (1) publishes more than one "Prime Rate", the higher or highest of such rates shall apply, or (2) publishes a retraction or correction of such rate, the rate reported in such retraction or correction shall apply.

"Public Records" shall mean the Public Records of Palm Beach County, Florida.

"Purchase Option" shall have the meaning set forth in Section 5.3. hereof.

"Rules and Regulations" shall have the meaning set forth in Section 14.3 hereof.

business, operations, and/or governing documents, cost of supervision, management fees, reserves, repairs, replacement, refurbishments, payroll and payroll costs, insurance, working capital, ad valorem or other taxes (excluding income taxes of Club Owner), assessments, costs, expenses, levies and charges of any nature which may be levied, imposed or assessed against, or in connection with, the Club. By way of example, and not as a limitation, the following expenses shall be included within Club Operating Costs: liability, casualty and business interruption insurance (with such deductibles as Club Owner deems appropriate; real property taxes, personal property taxes and taxing and community development district assessments; roof repair and replacement; and all other costs associated with changing or enhancing Club Facilities after initial construction. Club Operating Costs shall not include replacement of the basic building shell (other than roof repair and replacement) and the initial cost of construction of the Club Facilities.

"Club Owner" shall mean the owner of the real property comprising the Club and any of its designees, successors and assigns who receive a written assignment of all or some of the rights of Club Owner hereunder. Such assignment need not be recorded in the Public Records in order to be effective. In the event of such a partial assignment, the assignee shall not be deemed Club Owner but may exercise such rights of Club Owner specifically assigned to it. Any such assignment may be made on a non-exclusive basis. At this time, Lennar is Club Owner. Club Owner may change from time to time (e.g., Lennar may sell the Club or transfer ownership to another affiliate). Notwithstanding that the Club Owner and the Developer may be the same party, affiliates or related parties from time to time, each Owner acknowledges that Club Owner and Developer shall not be considered being one and the same party, and neither of them shall be considered the agent or partner of the other. At all times, Club Owner and Developer shall be considered separate and viewed in their separate capacities. No act or failure to act by Developer shall at any time be considered an act of Club Owner and shall not serve as the basis for any excuse, justification, waiver or indulgence to the Owners with regard to their prompt, full, complete and continuous performance of their obligations and covenants hereunder.

"Club Property" shall mean the real property described as Exhibit B attached hereto or such other real property identified as Club Property by Club Owner from time to time by written amendment to these Club Covenants.

"Club Purchase Price" shall mean the sum of the following: (i) the amount resulting from the application of the capitalization rate of ten percent (10%) applied to the total Club Fees payable by all Owners to Club Owner on the latter of the Option Date or the date upon which Association obtains title to the Club Property pursuant to the exercise of the Purchase Option; plus (ii) all of the costs to effect the transfer, including, without limitation, the cost of the owner's title insurance policy, all documentary stamp taxes and surtaxes, and the costs of preparing all of the closing documents.

"Common Areas" shall have the meaning set forth in the Declaration.

"Community Completion Date" shall have the meaning set forth in the Declaration.

"Declaration" shall mean that certain Declaration of Restrictions and Covenants for the Baywinds Community, as such Declaration shall be amended or modified from time to time, which has or will be recorded in the Public Records.

"Deed" shall mean any deed conveying any portion of Baywinds or any interest therein and any other instrument conveying or transferring or assigning the interest of an Owner to another including, without limitation, a deed to a Home, but excluding a mortgage on a Home.

"Default Rate" shall mean the lesser of eighteen percent (18%) or the highest rate permitted by law.

"Developer" shall have the meaning set forth in the Declaration. At this time Developer is Lennar.

"Home" shall have the meaning set forth in the Declaration. A Home shall be deemed created and have perpetual existence upon the issuance of a final or temporary Certificate of Occupancy for such residence; provided, however, the subsequent loss of such Certificate of Occupancy (e.g., by casualty, destruction or remodeling)

BAYWINDS CLUB COVENANTS

LENNAR LAND PARTNERS, a Florida general partnership ("Lennar"), and Lennar Homes, Inc., a Florida corporation ("LHI") are presently the owners of the real property described on Exhibit A attached hereto and made a part hereof ("Baywinds"). Lennar and LHI hereby declare that the real property comprising Baywinds shall be subject to the following restrictions, covenants, terms and conditions set forth in these Club Covenants so that the residents of Baywinds shall have access and the use of certain club facilities:

1. **Definitions.** In addition to the terms defined elsewhere herein, the following terms shall have the meanings specified below:

"Applicable Rate" shall mean two percent (2%) above the Prime Rate.

"Assessments" shall have the meaning set forth in the Declaration.

"Association" shall mean the Baywinds Community Association, Inc., its successors and assigns.

"Baywinds" shall have the meaning set forth in the Declaration. Baywinds presently includes the real property described on Exhibit A; however, Developer has reserved the right to withdraw property from, or add property to, Baywinds, so Baywinds may include less or more Homes than originally anticipated.

"Board" shall mean the Board of Directors of Association.

"Budget" shall have the meaning set forth in Section 8 hereof.

"Builder" shall mean any person or entity that purchases a Parcel from Developer for the purpose of constructing one or more Homes.

"Club" shall mean the Baywinds Club and all facilities constructed thereon subject to additions and deletions made by Club Owner from time to time.

"Club Charges" shall mean the charges related to the Club to be paid by the Owners pursuant to the provisions of these Club Covenants and the Declaration, including, without limitation, the Club Fee and each Owner's pro rata share of Club Operating Costs.

"Club Covenants" shall mean these Baywinds Club Covenants, together with all amendments and modifications hereto.

"Club Facilities" shall mean the actual facilities, improvements and personal property which Club Owner shall actually have constructed and/or made available to Owners pursuant to these Club Covenants. The Club Facilities are contemplated to consist of a health/fitness facility, a swimming pool and related amenities together with such equipment and personalty as Club Owner determines in its sole discretion. THE CLUB FACILITIES ARE SUBJECT TO CHANGE AT ANY TIME.

"Club Fee" shall mean the fee to be paid to Club Owner by each Owner pursuant to the provisions of Section 6.2 hereof.

"Club Manager" shall mean the entity operating and managing the Club, at any time. Club Owner and/or Association may be Club Manager as provided in these Club Covenants.

"Club Operating Costs" shall mean all costs (as such term is used in its broadest sense) of owning (including Club Owner's debt service), operating, managing, maintaining, insuring the Club, whether direct or indirect including, but not limited to, trash collection, utility charges, maintenance, legal fees of Club Owner relative to Club

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with the approval of (i) two-thirds (66 2/3%) of the Board; and (ii) seventy-five percent (75%) of all of the votes in Association. Notwithstanding the foregoing, these By-Laws may be amended after the Turnover Date by two-thirds percent (66 2/3%) of the Board acting alone to change the number of directors on the Board. Such change shall not require the approval of the Members. Any change in the number of directors shall not take effect until the next Annual Members Meeting.

13. Conflict. In the case of any conflict between the Articles and these By-Laws, the Articles shall control. In the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

14. Fiscal Year. The first fiscal year shall begin on the date of incorporation and end on December 31 of that year. Thereafter, the fiscal year of Association shall begin on the first day of January and end on the 31st day of December of every year.

15. Miscellaneous.

15.1. Florida Statutes. Whenever these By-Laws refers to the Florida Statutes, it shall be deemed to refer to the Florida Statutes as they exist on the date these By-Laws are recorded except to the extent provided otherwise as to any particular provision of the Florida Statutes.

15.2. Severability. Invalidation of any of the provisions of these By-Laws by judgment or court order shall in no way affect any other provision, and the remainder of these By-Laws shall remain in full force and effect.

617.303 of the Florida Statutes cause to be prepared in accordance with generally accepted accounting principles all financial reports required by the Florida Statutes; and perform such other duties as required by the Board.

9. Committees.

9.1. General. The Board may appoint such committees as deemed appropriate. The Board may fill any vacancies on all committees.

9.2. ACC. Developer shall have the sole right to appoint the members of the ACC until the Turnover Date. Upon expiration of the right of Developer to appoint members of the ACC, the Board shall appoint the members of the ACC. As provided under the Declaration, Association shall have the authority and standing to seek enforcement in courts of competent jurisdiction any decisions of the ACC.

10. Records. The official records of Association shall be available for inspection by any Member at the principal office of Association. Copies may be purchased, by a Member, at a reasonable cost.

11. Corporate Seal. Association shall have an impression seal in circular form.

12. Amendments.

12.1. General Restrictions on Amendments. Notwithstanding any other provision herein to the contrary, no amendment to these By-Laws shall affect the rights of Developer or Club Owner unless such amendment receives the prior written consent of Developer or Club Owner, as applicable, which may be withheld for any reason whatsoever. If the prior written approval of any governmental entity or agency having jurisdiction is required by applicable law or governmental regulation for any amendment to these By-Laws, then the prior written consent of such entity or agency must also be obtained. No amendment shall be effective until it is recorded in the Public Records.

12.2. Amendments Prior to the Turnover Date. Prior to the Turnover Date, Developer shall have the right to amend these By-Laws as it deems appropriate, without the joinder or consent of any person or entity whatsoever. Developer's right to amend under this provision is to be construed as broadly as possible. In the event that Association shall desire to amend these By-Laws prior to the Turnover Date, Association must first obtain Developer's prior written consent to any proposed amendment. Thereafter, an amendment identical to that approved by Developer may be adopted by Association pursuant to the requirements for amendments from and after the Turnover Date. Thereafter, Developer shall join in such identical amendment so that its consent to the same will be reflected in the Public Records.

12.3. Amendments From and After the Turnover Date. After the Turnover Date, but subject to the general restrictions on amendments set forth above, these By-Laws may be amended

8.2. Election of Officers. Except as set forth below, the election of officers shall be by the Board and shall take place at the first meeting of the Board following each Annual Members Meeting.

8.3. Term. The officers named in the Articles shall serve until their replacement by the Board. The officers of Association shall hold office until their successors are appointed or elected unless such officer shall sooner resign, be removed, or otherwise disqualified to serve.

8.4. Special Appointment. The Board may elect such other officers as the affairs of Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

8.5. Resignation and Removal. Any officer may be removed from office, with or without cause, by the Board. Any officer may resign at any time by giving written notice to the Board. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein. Acceptance of such resignation shall not be necessary to make it effective.

8.6. Vacancies. A vacancy in any office shall be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the replaced officer. Section 7.

8.7. Multiple Offices. The office of President and Vice-President shall not be held by the same person. All other offices may be held by the same person.

8.8. Duties. The duties of the officers are as follows:

8.8.1. President. The President shall preside at all meetings of Association and Board, sign all leases, mortgages, deeds and other written instruments and perform such other duties as may be required by the Board. The President shall be a member of the Board.

8.8.2. Vice President. The Vice President shall act in the place and stead of the President in the event of the absence, inability or refusal to act of the President, and perform such other duties as may be required by the Board.

8.8.3. Secretary. The Secretary shall record the votes and keep the Minutes of all meetings and proceedings of Association and the Board; keep the corporate seal of Association and affix it on all papers required to be sealed; serve notice of meetings of the Board and of Association; keep appropriate current records showing the names of the Members of Association together with their addresses; and perform such other duties as required by the Board.

8.8.4. Treasurer. The Treasurer shall cause to be received and deposited in appropriate bank accounts all monies of Association and shall disburse such funds as directed by the Board; sign, or cause to be signed, all checks, and promissory notes of Association; cause to be kept proper books of account and accounting records required pursuant to the provisions of Section

6.1.6. Common Areas. Acquire, sell, operate, lease, manage and otherwise trade and deal with property, real and personal, including the Common Areas, as provided in the Declaration, and with any other matters involving Association or its Members, on behalf of Association or the discharge of its duties, as may be necessary or convenient for the operation and management of Association and in accomplishing the purposes set forth in the Declaration and the Club Covenants.

6.1.7. Granting of Interest. Grant licenses, easements, permits, leases, or privileges to any individual or entity, which affect Common Areas and to alter, add to, relocate or improve the Common Areas as provided in the Declaration.

6.1.8. Financial Reports. Prepare all financial reports required by the Florida Statutes.

6.2. Vote. The Board shall exercise all powers so granted except where the Declaration, Articles or these By-Laws specifically require a vote of the Members.

6.3. Limitations. Until the Turnover Date, Developer shall have and is hereby granted a right to disapprove or veto any such action, policy, or program proposed or authorized by Association, the Board, the ACC, any committee of Association, or the vote of the Members. This right may be exercised by Developer at any time within ten (10) days following a meeting held pursuant to the terms and provisions hereof. This right to disapprove may be used to veto proposed actions but shall not extend to the requiring of any action or counteraction on behalf of Association, the Board, the ACC or any committee of the Association.

7. Obligations of Association. Association, subject to the provisions of the Declaration, Articles, these By-Laws and the Club Covenants, shall discharge such duties as necessary to operate Association pursuant to the Declaration, including, but not limited to, the following:

7.1. Official Records. Maintain and make available all Official Records.

7.2. Supervision. Supervise all officers, agents and employees of Association, and to see that their duties are properly performed.

7.3. Assessments and Fines. Fix and collect the amount of the Assessments and fines; take all necessary legal action; and pay, or cause to be paid, all obligations of Association or where Association has agreed to do so, of the Members.

7.4. Enforcement. Enforce the provisions of the Declaration, Articles, these By-Laws, Rules and Regulations and, when appropriate, the Club Covenants.

8. Officers and Their Duties.

8.1. Officers. The officers of this Association shall be a President, a Vice President, a Secretary, and a Treasurer.

5.6. Voting. Board Members shall cast votes in the manner provided in the Florida Statutes. In the absence of a statutory provision, the Board shall establish the manner in which votes shall be cast.

5.7. Notice of Board Meetings. Notices of meetings of the Board shall be posted in a conspicuous place on the Common Areas and/or in the Club at least 48 hours in advance, except in an event of an emergency. Alternatively, notice may be given to Members in any other manner provided by Florida Statute. By way of example, and not of limitation, notice may be given in any Club newsletter distributed to the Members. For the purposes of giving notice, the area for notices to be posted within the Club shall be deemed a conspicuous place. Notices of any meetings of the Board at which Assessments against Homes are to be established shall specifically contain a statement that Assessments shall be considered and a statement of the nature of such Assessments.

6. Powers and Duties of the Board.

6.1. Powers. The Board shall, subject to the limitations and reservations set forth in the Declaration and Articles, have the powers reasonably necessary to manage, operate, maintain and discharge the duties of Association, including, but not limited to, the power to cause Association to do the following:

6.1.1. General. Exercise all powers, duties and authority vested in or delegated to Association by law and in these By-Laws; the Articles, the Declaration and the Club Covenants, including, without limitation, adopt budgets, levy Assessments, enter into contracts with Service Providers for Telecommunication Services, collect and remit the Club Charges and, by majority vote of the Board, without the consent of any Owner or any other party, exercise the Association's option to acquire the Club.

6.1.2. Rules and Regulations. Adopt, publish, promulgate and enforce rules and regulations governing the use of Baywinds by the Members, tenants and their guests and invitees, and to establish penalties and/or fines for the infraction thereof subject only to the requirements of the Florida Statutes, if any.

6.1.3. Enforcement. Suspend the right of use of the Common Areas (other than for vehicular and pedestrian ingress and egress and for utilities) of a Member during any period in which such Member shall be in default in the payment of any Assessment or charge levied, or collected, by Association.

6.1.4. Declare Vacancies. Declare the office of a member of the Board to be vacant in the event such Member shall be absent from three (3) consecutive regular Board meetings.

6.1.5. Hire Employees. Employ, on behalf of Association, managers, independent contractors, or such other employees as it deems necessary, to prescribe their duties and delegate to such manager, contractor, etc., any or all of the duties and functions of Association and/or its officers.

4.5. Action Taken Without a Meeting. Except to the extent prohibited by law, the Board shall have the right to take any action without a meeting by obtaining the written approval of the required number of Directors. Any action so approved shall have the same effect as though taken at a meeting of Directors.

4.6. Appointment and Election of Directors. Until the Turnover Date, the Developer shall have the unrestricted power to appoint all Directors of Association. From and after the Turnover Date, or such earlier date determined by Developer in its sole and absolute discretion, the Members shall elect all Directors of Association at or in conjunction with the Annual Members Meeting of the Members.

4.7. Election. Election to the Board shall be by secret written ballot, unless unanimously waived by all Members present. The persons receiving the largest numbers of votes shall be elected. Cumulative voting is not permitted.

5. Meeting of Directors.

5.1. Regular Meetings. Regular meetings of the Board shall be held on a schedule adopted by the Board from time to time. Meetings shall be held at such place and hour as may be fixed, from time to time, by resolution of the Board.

5.2. Special Meetings. Special meetings of the Board shall be held when called by the President, or by any two (2) Directors. Each Director shall be given not less than two (2) days' notice except in the event of an emergency. Notice may be waived. Attendance shall be a waiver of notice. Telephone conference meetings are permitted.

5.3. Emergencies. In the event of an emergency involving immediate danger of injury or death to any person or damage to property, if a meeting of the Board cannot be immediately convened to determine a course of action, the President or, in his absence, any other officer or director, shall be authorized to take such action on behalf of Association as shall be reasonably required to appropriately respond to the emergency situation, including the expenditure of Association funds in the minimum amount as may be reasonably required under the circumstances. The authority of officers to act in accordance herewith shall remain in effect until the first to occur of the resolution of the emergency situation or a meeting of the Board convened to act in response thereto.

5.4. Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting, at which a quorum is present, or in writing in lieu thereof, shall be action of the Board.

5.5. Open Meetings. Meetings of the Board shall be open to all Members.

to cast twenty percent (20%) of the Voting Interests, except as otherwise provided in the Articles, the Declaration, or these By-Laws. Notwithstanding any provision herein to the contrary, in the event that technology permits Members to participate in Members Meetings and vote on matters electronically, then the Board shall have authority, without the joinder of any other party, to revise this provision to establish appropriate quorum requirements.

3.6. Adjournment of Members Meetings. If, however, a quorum shall not be present at any Members meeting, the meeting may be adjourned as provided in the Florida Statutes. In the absence of a provision in the Florida Statutes, the Members present shall have power to adjourn the meeting and reschedule it on another date.

3.7. Action of Members. Decisions that require a vote of the Members must be made by a concurrence of a majority of the Voting Interests present in person or by proxy, represented at a meeting at which a quorum has been obtained unless provided otherwise in the Declaration, the Articles, or these By-Laws.

3.8. Proxies. At all meetings, Members may vote their Voting Interests in person or by proxy. All proxies shall comply with the provisions of Section 617.306(6) of the Florida Statutes, as amended from time to time, be in writing, and be filed with the Secretary at, or prior to, the meeting. Every proxy shall be revocable prior to the meeting for which it is given.

4. Board of Directors.

4.1. Number. The affairs of Association shall be managed by a Board consisting of three (3) nor more than nine (9) persons. Board members appointed by Developer need not be Members of Association. Board members elected by the other Members must be Members of Association.

4.2. Term of Office. The election of Directors shall take place after Developer no longer has the authority to appoint the Board and shall take place at the Annual Members Meeting or on the Turnover Date. Directors shall be elected for a term ending upon the election of new Directors at the following Annual Members Meeting (except that the term of the Board appointed by the Developer shall extend until the date designated by Developer, or until the Turnover Date).

4.3. Removal. Any vacancy created by the resignation or removal of a Board member appointed by Developer may be replaced by Developer. Developer may replace or remove any Board member appointed by Developer in Developer's sole and absolute discretion. In the event of death or resignation of a Director elected by the Members, the remaining Directors may fill such vacancy. Directors may be removed with or without cause by the vote or agreement in writing of Members holding a majority of the Voting Interests.

4.4. Compensation. No Director shall receive compensation for any service rendered as a Director to Association; provided, however, any Director may be reimbursed for actual expenses incurred as a Director.

partners may exercise the Voting Interest associated with such Home. In the event of a conflict among general partners entitled to exercise a Voting Interest, the Voting Interest for such Home cannot be exercised.

3.1.5. Multiple Individuals. If a Home is owned by more than one individual, any one of such individuals may exercise the Voting Interest with respect to such Home. In the event that there is a conflict among such individuals, the Voting Interest for such Home cannot be exercised.

3.1.6. Liability of Association. Association may act in reliance upon any writing or instrument or signature, whether original or facsimile, which Association, in good faith, believes to be genuine; may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument, and may assume that any person purporting to give any writing, notice, advice or instruction in connection with the provisions hereof has been duly authorized to do so. So long as Association acts in good faith, Association shall have no liability or obligation with respect to the exercise of Voting Interests, and no election shall be invalidated (in the absence of fraud) on the basis that Association permitted or denied any person the right to exercise a Voting Interest. In addition, the Board may impose additional requirements respecting the exercise of Voting Interests (e.g., the execution of a Voting Certificate).

3.2. Annual Meetings. The annual meeting of the Members (the "Annual Members Meeting") shall be held at least once each calendar year on a date, at a time, and at a place to be determined by the Board.

3.3. Special Meetings of the Members. Special meetings of the Members (a "Special Members Meeting") may be called by the President, a majority of the Board, or upon written request of ten percent (10%) of the Voting Interests of the Members. The business to be conducted at a Special Members Meeting shall be limited to the extent required by Florida Statutes.

3.4. Notice of Members Meetings. Written notice of each Members meeting shall be given by, or at the direction of, any officer of the Board or any management company retained by Association. A copy of the notice shall be mailed to each Member entitled to vote, postage prepaid, not less than ten (10) days before the meeting (provided, however, in the case of an emergency, two (2) days' notice will be deemed sufficient). The notice shall be addressed to the member's address last appearing on the books of Association. The notice shall specify the place, day, and hour of the meeting and, in the case of a Special Members Meeting, the purpose of the meeting. Alternatively, and to the extent not prohibited by the Florida Statutes, the Board may adopt from time to time, other procedures for giving notice to the Members of the Annual Members Meeting or a Special Members Meeting. By way of example, and not of limitation, such notice may be included in a newsletter sent to each Member by the Club.

3.5. Quorum of Members. Until the Community Completion Date, a quorum shall be established by Developer's presence at any meeting. From and after the Community Completion Date, a quorum shall be established by the presence, in person or by proxy, of the Members entitled

"Turnover Date" shall have the meaning set forth in the Declaration.

"Voting Interests" shall mean the voting rights held by the Members.

3. Members.

3.1. Voting Interests. Each Owner and Developer shall be a Member of Association. No person who holds an interest in a Home only as security for the performance of an obligation shall be a Member of Association. Membership shall be appurtenant to, and may not be separated from, ownership of any Home. There shall be one vote appurtenant to each Home. For the purposes of determining who may exercise the Voting Interest associated with each Home, the following rules shall govern:

3.1.1. Home Owned By Husband and Wife. Either the husband or wife (but not both) may exercise the Voting Interest with respect to a Home. In the event the husband and wife cannot agree, neither may exercise the Voting Interest.

3.1.2. Trusts. In the event that any trust owns a home, Association shall have no obligation to review the trust agreement with respect to such trust. If the Home is owned by Robert Smith, as Trustee, Robert Smith shall be deemed the Owner of the Home for all Association purposes. If the Home is owned by Robert Smith as Trustee for the Laura Jones Trust, then Robert Smith shall be deemed the Member with respect to the Home for all Association purposes. If the Home is owned by the Laura Jones Trust, and the deed does not reference a trustee, then Laura Jones shall be deemed the Member with respect to the Home for all Association purposes. If the Home is owned by the Jones Family Trust, the Jones Family Trust may not exercise its Voting Interest unless it presents to Association, in the form of an attorney opinion letter or affidavit reasonably acceptable to Association, the identification of the person who should be treated as the Member with respect to the Home for all Association purposes. If Robert Smith and Laura Jones, as Trustees, hold title to a Home, either trustee may exercise the Voting Interest associated with such Home. In the event of a conflict between trustees, the Voting Interest for the Home in question cannot be exercised. In the event that any other form of trust ownership is presented to Association, the decision of the Board as to who may exercise the Voting Interest with respect to any Home shall be final. Association shall have no obligation to obtain an attorney opinion letter in making its decision, which may be made on any reasonable basis whatsoever.

3.1.3. Corporations. If a Home is owned by a corporation, the corporation shall designate a person, an officer, employee, or agent who shall be treated as the Member who can exercise the Voting Interest associated with such Home.

3.1.4. Partnerships. If a Home is owned by a limited partnership, any one of the general partners may exercise the Voting Interest associated with such Home. By way of example, if the general partner of a limited partnership is a corporation, then the provisions hereof governing corporations shall govern which person can act on behalf of the corporation as general partner of such limited partnership. If a Home is owned by a general partnership, any one of the general

**BY-LAWS
OF
BAYWINDS COMMUNITY ASSOCIATION, INC.**

1. Name and Location. The name of the corporation is BAYWINDS COMMUNITY ASSOCIATION, INC. ("Association"). The principal office of the corporation shall be located at 8190 State Road 84, Davie, Florida 33324, or at such other location determined by the Board of Directors (the "Board") from time to time.

2. Definitions. The definitions contained in the Declaration of Restrictions and Covenants for the Baywinds Community (the "Declaration") relating to the residential community known as Baywinds, recorded, or to be recorded, in the Public Records of Palm Beach County, Florida, are incorporated herein by reference and made a part hereof. In addition to the terms defined in the Declaration, the following terms shall have the meanings set forth below:

"Annual Members Meeting" shall have the meaning assigned to such term in Section 3.2 of these By-Laws.

"Articles" shall mean the Articles of Incorporation for Association, as amended from time to time.

"By-Laws" shall mean these By-Laws as amended from time to time.

"Declaration" shall mean the Declaration as modified from time to time.

"Developer" shall mean Lennar Land Partners and any of its designees, successors and assigns who receive a written assignment of all or some of the rights of Developer hereunder. Such assignment need not be recorded in the Public Records in order to be effective. In the event of such a partial assignment, the assignee shall not be deemed Developer, but may exercise such rights of Developer specifically assigned to it. Any such assignment may be made on a non-exclusive basis.

"Member" shall mean each Owner and Developer.

"Minutes" shall mean the minutes of all Member and Board meetings, which shall be in the form required by the Florida Statutes. In the absence of governing Florida Statutes, the Board shall determine the form of the minutes.

"Official Records" shall mean all records required to be maintained by Association pursuant to Section 617.303(4) of the Florida Statutes, as amended from time to time.

"Special Members Meeting" shall have the meaning assigned to such term in Section 3 of these By-Laws.

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**BY-LAWS
OF
BAYWINDS COMMUNITY ASSOCIATION, INC.**

Baywinds By-Laws
February 15, 2000

199 01, 133

IN WITNESS WHEREOF, for the purpose of forming this corporation under the Laws of the State of Florida, the undersigned, being the Incorporator of this Association, has executed these Articles of Incorporation as of this 22 day of September, 1999.

WITNESSES:

Jill Soman deiter
Print name: Jill Soman deiter

Maribel G. Pila
Print name: Maribel G. Pila

PATRICIA KIMBALL FLETCHER
Incorporator

STATE OF FLORIDA)

) SS.:

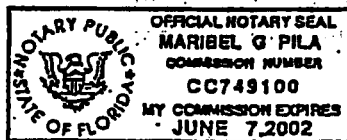
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 22nd day of September, 1999 by PATRICIA KIMBALL FLETCHER who is personally known to me or presented N/A as identification.

My commission expires:

Maribel G. Pila
NOTARY PUBLIC, State of Florida
at Large.

Print name: Maribel G. Pila



ACCEPTANCE BY REGISTERED AGENT

The undersigned, having been named to accept service of process for the above-stated corporation at the place designated in this certificate, hereby agrees to act in this capacity, and is familiar with, and accepts, the obligations of this position and further agrees to comply with the provisions of all statutes relative to the proper and complete performance of its duties.

Dated this 27 day of Sept, 1999.

KTG&S Registered Agent
Corporation

By:

Michael K. Smith
Michael K. Smith, as President

Articles of Incorporation
September 22, 1999

PATRICIA KIMBALL FLETCHER

100 S.E. 2nd Street
Suite 2800
Miami, Florida 33131

15. **Officers.** The Board shall elect a President, Secretary, Treasurer, and as many Vice Presidents, Assistant Secretaries and Assistant Treasurers as the Board shall from time to time determine. The names and addresses of the Officers who shall serve until their successors are elected by the Board are as follows:

President:	DENISE GEARY
Vice President:	ROBERT DREWS
Secretary:	JILL CIERPIK
Treasurer:	JILL CIERPIK

16. **Indemnification of Officers and Directors.** The Association shall and does hereby indemnify and hold harmless every Director and every Officer, their heirs, executors and administrators, against all loss, cost and expenses reasonably incurred in connection with any action, suit or proceeding to which such Director or Officer may be made a party by reason of being or having been a Director or Officer of the Association, including reasonable counsel fees and paraprofessional fees at all levels of proceeding. This indemnification shall not apply to matters wherein the Director or Officer shall be finally adjudged in such action, suit or proceeding to be liable for or guilty of gross negligence or willful misconduct. The foregoing rights shall be in addition to, and not exclusive of, all other rights to which such Director or Officers may be entitled.

17. **Transactions in Which Directors or Officers are Interested.** No contract or transaction between the Association and one (1) or more of its Directors or Officers or Developer or Club Owner, or between the Association and any other corporation, partnership, association, or other organization in which one (1) or more of its Officers or Directors are officers, directors or employees or otherwise interested shall be invalid, void or voidable solely for this reason, or solely because the Officer or Director is present at, or participates in, meetings of the Board thereof which authorized the contract or transaction, or solely because said Officers' or Directors' votes are counted for such purpose. No Director or Officer of the Association shall incur liability by reason of the fact that such Director or Officer may be interested in any such contract or transaction. Interested Directors shall disclose the general nature of their interest and may be counted in determining the presence of a quorum at a meeting of the Board which authorized the contract or transaction.

11. Duration. The Association shall have perpetual existence.

12. Amendments.

12.1. General Restrictions on Amendments. Notwithstanding any other provision herein to the contrary, no amendment to these Articles shall affect the rights of Developer or Club Owner unless such amendment receives the prior written consent of Developer or Club Owner, as applicable, which may be withheld for any reason whatsoever. If the prior written approval of any governmental entity or agency having jurisdiction is required by applicable law or governmental regulation for any amendment to these Articles, then the prior written consent of such entity or agency must also be obtained. No amendment shall be effective until it is recorded in the Public Records.

12.2. Amendments Prior to the Turnover Date. Prior to the Turnover Date, Developer shall have the right to amend these Articles as it deems appropriate, without the joinder or consent of any person or entity whatsoever. Developer's right to amend under this Section is to be construed as broadly as possible. In the event that Association shall desire to amend these Articles prior to the Turnover Date, Association must first obtain Developer's prior written consent to any proposed amendment. Thereafter, an amendment identical to that approved by Developer may be adopted by Association pursuant to the requirements for amendments from and after the Turnover Date. Thereafter, Developer shall join in such identical amendment so that its consent to the same will be reflected in the Public Records.

12.3. Amendments From and After the Turnover Date. After the Turnover Date, but subject to the general restrictions on amendments set forth above, these Articles may be amended with the approval of (i) two-thirds (66 2/3%) of the Board.

13. Limitations.

13.1. Declaration is Paramount. No amendment may be made to these Articles which shall in any manner reduce, amend, affect or modify the terms, conditions, provisions, rights and obligations set forth in the Declaration.

13.2. Rights of Developer and Club Owner. There shall be no amendment to these Articles which shall abridge, reduce, amend, effect or modify the rights of Developer and/or the Club Owner.

13.3. By-Laws. These Articles shall not be amended in a manner that conflicts with the By-Laws.

14. Incorporator. The name and address of the Incorporator of this corporation is:

7.14. To employ personnel and retain independent contractors to contract for management of the Association, Baywinds and the Common Area and Club (if Association shall ever be appointed Club Manager pursuant to the Club Covenants) as provided in the Declaration and to delegate in such contract all or any part of the powers and duties of the Association.

7.15. To contract for services to be provided to, or for the benefit of, the Association, Club Owner, Owners, the Common Areas and Baywinds and the Club as provided in the Declaration and Club Covenants such as, but not limited to, Telecommunication Services, maintenance, garbage pick-up, and utility services.

7.16. To establish committees and delegate certain of its functions to those committees.

8. Voting Rights. Owners and Developer shall have the voting rights set forth in the By-Laws.

9. Board of Directors. The affairs of the Association shall be managed by a Board of odd number with not less than three (3) nor more than nine (9) members. The initial number of directors shall be three (3). Board members shall be appointed and/or elected as stated in the By-Laws. The election of Directors shall be held at the annual meeting. Directors shall be elected for a term expiring on the date of the next annual meeting. The names and addresses of the members of the first Board who shall hold office until their successors are appointed or elected, or until removed, are as follows:

NAME

ADDRESS

DENISE GEARY

8190 State Road 84
Davie, Florida 33324

ROBERT DREWS

12230 Forest Hill Blvd., Suite 150
Wellington, FL 33414

JILL CIERPIK

8190 State Road 84
Davie, Florida 33324

10. Dissolution. In the event of the dissolution of the Association other than incident to a merger or consolidation, any member may petition the Circuit Court having jurisdiction of the Judicial Circuit of the State of Florida for the appointment of a receiver to manage its affairs of the dissolved Association and to manage the Common Areas, in the place and stead of the Association, and to make such provisions as may be necessary for the continued management of the affairs of the dissolved Association and its properties. In addition, if Association is dissolved, the Surface Water Management System shall be conveyed to an appropriate agency of local government. If a governmental agency will not accept the Surface Water Management System, then it must be dedicated to a similar non-profit corporation.

7.2. To enforce, by legal action or otherwise, the provisions of the Declaration and By-Laws and of all rules, regulations, covenants, restrictions and agreements governing or binding the Association and Baywinds.

7.3. To operate and maintain the Surface Water Management System as required by the Environmental Resource Permit and Declaration, including the lake and mitigation areas.

7.4. To fix, levy, collect and enforce payment, by any lawful means, of all Assessments pursuant to the terms of the Declaration, these Articles and By-Laws.

7.5. To pay all Operating Costs, including, but not limited to, all licenses, taxes or governmental charges levied or imposed against the property of the Association.

7.6. To do all acts and make all payments required by the Club Covenants.

7.7. To acquire (by gift, purchase or otherwise), annex, own, hold, improve, build upon, operate, maintain, convey, grant rights and easements, sell, dedicate, lease, transfer or otherwise dispose of real or personal property (including the Common Areas) in connection with the functions of the Association except as limited by the Declaration.

7.8. To borrow money, and to mortgage, pledge or hypothecate any or all of its real or personal property as security for money or debts incurred.

7.9. To purchase the Club as provided in the Club Covenants without the joinder or consent of the Owners or any other party.

7.10. To dedicate, grant, license, lease, concession, create easements upon, sell or transfer all or any part of, Baywinds to any public agency, entity, authority, utility or other person or entity for such purposes and subject to such conditions as it determines and as provided in the Declaration.

7.11. To participate in mergers and consolidations with other non-profit corporations organized for the same purposes.

7.12. To adopt, publish, promulgate or enforce rules, regulations, covenants, restrictions or agreements governing the Association, Baywinds, the Common Areas, Parcels and Homes as provided in the Declaration and to effectuate all of the purposes for which the Association is organized.

7.13. To have and to exercise any and all powers, rights and privileges which a not-for-profit corporation organized under the Laws of the State of Florida may now, or hereafter, have or exercise.

ARTICLES OF INCORPORATION
OF
BAYWINDS COMMUNITY ASSOCIATION, INC.
(A CORPORATION NOT FOR PROFIT)

In compliance with the requirements on the Laws of the State of Florida, and for the purpose of forming a corporation not for profit, the undersigned does hereby acknowledge:

1. Name of Corporation. The name of the corporation is BAYWINDS COMMUNITY ASSOCIATION, INC. ("Association").

2. Principal Office. The principal office of the Association 8190 State Road 84, Davie, Florida 33324.

3. Registered Office - Registered Agent. The street address of the Registered Office of the Association is 100 S.E. 2nd Street, Suite 2800, Miami, Florida 33131. The name of the Registered Agent of the Association is:

KTG&S Registered Agent Corporation

4. Definitions. A declaration entitled Declaration of Restrictions and Covenants for Baywinds Community (the "Declaration") will be recorded in the Public Records of Palm Beach County, Florida, and shall govern all of the operations of a community to be known as Baywinds. All initially capitalized terms not defined herein shall have the meanings set forth in the Declaration.

5. Purpose of the Association. The Association is formed to: (a) provide for ownership, operation, maintenance and preservation of the Common Areas, and improvements thereon; (b) perform the duties delegated to it in the Declaration; (c) administer the interests of the Association and the Owners; (d) promote the health, safety and welfare of the Owners.

6. Not for Profit. The Association is a not for profit Florida corporation and does not contemplate pecuniary gain to, or profit for, its members.

7. Powers of the Association. The Association shall, subject to the limitations and reservations set forth in the Declaration and the Club Covenants, have all the powers, privileges and duties reasonably necessary to discharge its obligations, including, but not limited to, the following:

7.1. To perform all the duties and obligations of the Association set forth in the Declaration and By-Laws, as herein provided.

State of Florida



Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of BAYWINDS COMMUNITY ASSOCIATION, INC., a Florida corporation, filed on September 29, 1999, as shown by the records of this office.

The document number of this corporation is N99000005777.

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
Twenty-ninth day of September, 1999



CR2ED22 (1-99)

Katherine Harris

Katherine Harris
Secretary of State

60 7 123

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**ARTICLES OF INCORPORATION
BAYWINDS COMMUNITY ASSOCIATION, INC.
(A CORPORATION NOT FOR PROFIT)**

Articles of Incorporation
September 22, 1994

{SEAL}

Witness to that certain Power of Attorney recorded in
Official Records Book 10092 at page 423 in the Public
Records of Palm Beach County, Florida

STATE OF FLORIDA)

COUNTY OF Palm Beach) SS:

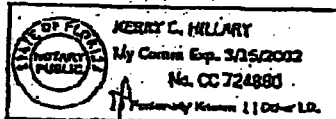
The foregoing instrument was acknowledged before me this 16th day of Oct.
2001 by Doyle D. Dudley as Vice President of Lennar Homes, Inc., as attorney in fact for Lennar
Land Partners, a Florida general partnership, who is personally known to me or who has produced
as identification.

My commission expires:

3/15/02

Kerry C. Hillary
NOTARY PUBLIC, State of Florida

Print name: Kerry C. Hillary



- prior to the Turnover Date (as defined in the Declaration), which date has not yet occurred.
- D. Lennar desires to amend the Declaration as set forth herein.

NOW THEREFORE, Lennar hereby declares that every portion of Baywinds is to be held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions and restrictions hereinafter set forth.

1. Recitals. The foregoing Recitals are true and correct and are incorporated into and form a part of this Fourth Amendment.

2. Conflicts. In the event that there is a conflict between this Fourth Amendment and the Declaration, this Fourth Amendment shall control. Whenever possible, this Fourth Amendment and the Declaration shall be construed as a single document. Except as modified hereby, the Declaration shall remain in full force and effect.

3. Capitalized Terms. All initially capitalized terms not defined herein shall have the meaning set forth in the Declaration, except that the defined term "Declaration" is hereby modified as follows:

"Declaration" shall mean the Original Declaration, the Amendments and this Fourth Amendment, together with all amendments and modifications thereof.

4. Withdrawal of Property. The real property legally described on Exhibit A to this Fourth Amendment is hereby withdrawn from Exhibit 1 attached to the Declaration, as well as the definition of "Baywinds" and the jurisdiction of the Association, and is also withdrawn from Exhibit A of the Club Covenants, which are attached as Exhibit 4 to the Declaration.

5. Covenant Running with the Land. The Fourth Amendment is a covenant running with all of Baywinds, and shall be binding upon their successors and assigns.

IN WITNESS WHEREOF, the undersigned, being Developer under the Declaration, has hereunto set its hand and seal this 16th day of October, 2001.

WITNESSES:

Kerry C. Hillary
Print Name: Kerry C. Hillary
Lisa Wentz
Print Name: LISA WENTZ

LENNAR LAND PARTNERS, a
Florida general partnership.

By: Lennar Homes, Inc., a Florida
corporation, attorney in fact.

By: Doyle D. Dudley
Name: Doyle D. Dudley
Title: Vice President

11/16/2001 08:12:57 20010527079
DR BK 13094 PS 4221
Palm Beach County, Florida

PREPARED BY AND RETURN TO:

PATRICIA K. FLETCHER, ESQ.
Patricia Kimball Fletcher, P.A.
Duane, Morris & Heckscher LLP
200 South Biscayne Blvd., Suite 3410
Miami, Florida 33131

FOURTH AMENDMENT TO DECLARATION OF RESTRICTIONS AND COVENANTS
FOR THE BAYWINDS COMMUNITY

THIS FOURTH AMENDMENT TO DECLARATION OF RESTRICTIONS AND COVENANTS FOR THE BAYWINDS COMMUNITY ("Fourth Amendment") is made by Lennar Land Partners, a Florida general partnership ("Lennar") and joined in by Baywinds Community Association, Inc., a Florida not-for-profit corporation ("Association").

RECITALS

- A. Lennar recorded the Declaration of Restrictions and Covenants for the Baywinds Community in Official Records Book 11658 at Page 144 of the Public Records of Palm Beach County, Florida (the "Original Declaration"), respecting the community known as Baywinds.
- B. Thereafter, the Original Declaration was amended by that certain First Amendment to Declaration of Restrictions and Covenants for the Baywinds Community recorded in Official Records Book 12013 at Page 1248, that certain Second Amendment to Declaration of Restrictions and Covenants for the Baywinds Community recorded in Official Records Book 12057 at Page 1711, and that certain Third Amendment to Declaration of Restrictions and Covenants for the Baywinds Community recorded in Official Records Book 12301 at Page 358, all of the Public Records of Palm Beach County, Florida (the "Amendments"). The Original Declaration together with the Amendments shall hereinafter be referred to as the "Declaration."
- C. Section 5.3 of the Declaration provides that prior to the Turnover Date, any portions of Baywinds (or any additions thereto) may be withdrawn by Developer from the provisions and applicability of this Declaration by the recording of an amendment to this Declaration in the Public Records.
- D. Section 4.2 of the Declaration permits Lennar, as Developer, to amend the Declaration as it deems appropriate without the joinder or consent of any other person or entity whatsoever.

JOINDER

BAYWINDS COMMUNITY ASSOCIATION, INC.

BAYWINDS COMMUNITY ASSOCIATION, INC. does hereby join in the Third Amendment to Declaration of Restrictions and Covenants for the Baywinds Community ("Third Amendment"), to which this Joinder is attached, and the terms thereof are and shall be binding upon the undersigned and its successors in title. Association acknowledges that this Joinder is for convenience only and is not to the effectiveness of the Third Amendment, as Association has no right to approve the Third Amendment.

IN WITNESS WHEREOF, the undersigned has executed this Joinder on this 31 day of January, 2001.

WITNESSES:

[Signature]

Print Name:

Tanya Sperwer

[Signature]

Print Name:

Becky Wilson

BAYWINDS COMMUNITY
ASSOCIATION, INC., a Florida not for
profit corporation

By: [Signature]

Name: Sharon Caputo

Title: President

{SEAL}

STATE OF FLORIDA)
) SS.:
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me this 31 day of January, 2001 by Sharon Caputo as President of BAYWINDS COMMUNITY ASSOCIATION, INC., a Florida not for profit corporation, who is personally known to me or who produced N/A as identification on behalf of the corporation.

My commission expires:

NOTARY PUBLIC, State of Florida
at Large

[Signature]



Christine Nunzio
MY COMMISSION # CC927973 EXPIRES
April 13, 2004
BONDED THROUGH TROY FARM INSURANCE INC.

Records Book 10092 at page 423 in the Public Records of Palm Beach County, Florida

STATE OF FLORIDA)

COUNTY OF Broward)

SS.:

The foregoing instrument was acknowledged before me this 31 day of January, 2001 by Doyle D. Dudley as Vice President of Lennar Homes, Inc., as attorney in fact for Lennar Land Partners, a Florida general partnership, who is personally known to me or who has produced N/A as identification.

My commission expires:



Christine Nunzio
MY COMMISSION # CC327973 EXPIRES
April 13, 2004
BONDED THROUGH FARM INSURANCE, INC.

Christine Nunzio
NOTARY PUBLIC, State of Florida

at Large

Print name: Christine Nunzio

1. Recitals. The foregoing Recitals are true and correct and are incorporated into and form a part of this Third Amendment.

2. Conflicts. In the event that there is a conflict between this Third Amendment and the Declaration, this Third Amendment shall control. Whenever possible, this Third Amendment and the Declaration shall be construed as a single document. Except as modified hereby, the Declaration shall remain in full force and effect.

3. Capitalized Terms. All initially capitalized terms not defined herein shall have the meaning set forth in the Declaration, except that the defined term "Declaration" is hereby modified as follows:

"Declaration" shall mean the Declaration and this Third Amendment together with all amendments and modifications thereof.

4. Section 11.4.4. The following sentence is hereby added to the end of Section 11.4.4:

In addition to the above surface water management system public improvements, NPBCID will also be constructing, operating and maintaining (unless indicated above that a maintenance agreement is entered into between NPBCID and the Association) the following public infrastructure improvements within Baywinds, namely: a) Spine road water and sewer improvements.

IN WITNESS WHEREOF, the undersigned, being Developer under the Declaration, has hereunto set its hand and seal this 31 day of January, 2001.

WITNESSES:

Print Name:

Print Name:

LENNAR LAND PARTNERS, a
Florida general partnership

By: Lennar Homes, Inc., a Florida
corporation, attorney in fact*

By:

Name: Doyle D. Dudley

Title: Vice President

(SEAL)

*pursuant to that certain Power of Attorney recorded in Official
Records Book 10092 at page 423 in the Public Records of Palm
Beach County, Florida

DRB 12057 Pg 1780
DOROTHY H. WILKEN, CLERK PB COUNTY, FL

JOINDER

BAYWINDS COMMUNITY ASSOCIATION, INC.

BAYWINDS COMMUNITY ASSOCIATION, INC. does hereby join in the Second Amendment to Declaration of Restrictions and Covenants for the Baywinds Community ("Second Amendment"), to which this Joinder is attached, and the terms thereof are and shall be binding upon the undersigned and its successors in title. Association acknowledges that this Joinder is for convenience only and is not to the effectiveness of the Second Amendment, as Association has no right to approve the Second Amendment.

IN WITNESS WHEREOF, the undersigned has executed this Joinder on this ____ day of October, 2000.

WITNESSES:

BAYWINDS COMMUNITY ASSOCIATION, INC., a Florida not for profit corporation.

Mark Brunfield
Print Name: Mark Brunfield

By: Robert W. Drews Pres.
Name: Robert Drews
Title: Vice President

Debbie L. Sanguza
Print Name: Debbie L. Sanguza

(SEAL)

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

SS:

The foregoing instrument was acknowledged before me this 4 day of October, 2000 by Robert Drews as Vice President of BAYWINDS COMMUNITY ASSOCIATION, INC., a Florida not for profit corporation, who is personally known to me or who produced NIA as identification on behalf of the corporation.

My commission expires:

NOTARY PUBLIC, State of Florida
SANDI M. COOPER
MY COMMISSION # 00000000
EXPIRES: September 3, 2002
Sandi M. Cooper

DRB 12057 Pg 1779

Homes in Baywinds may be occupied by persons who are under the age of fifty-five (55) so long as such persons are twenty (20) years of age or older.

IN WITNESS WHEREOF, the undersigned, being Developer under the Declaration, has hereunto set its hand and seal this ___ day of October, 2000.

WITNESSES:

[Signature]
Print Name: Mark Brunfield

[Signature]
Print Name: KAREN L. DRIVER

LENNAR LAND PARTNERS, a
Florida general partnership

By: Lennar Homes, Inc., a Florida
corporation, attorney in fact*

By: [Signature]
Name: _____
Title: Vice President

{SEAL}

*pursuant to that certain Power of Attorney recorded in Official
Records Book 10092 at page 423 in the Public Records of Palm
Beach County, Florida

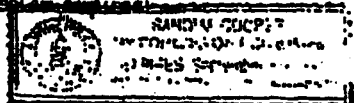
STATE OF FLORIDA)

) SS:

COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me this 3 day of October, 2000 by Michael Smolik as Vice President of Lennar Homes, Inc., as attorney in fact for Lennar Land Partners, a Florida general partnership, who is personally known to me or who has produced n/a as identification.

My commission expires:



[Signature]
NOTARY PUBLIC, State of Florida

at Large
Print name: Sandy M. Cooper

DRB 12057 Pg 1778

1. Recitals. The foregoing Recitals are true and correct and are incorporated into and form a part of this Second Amendment.

2. Conflicts. In the event that there is a conflict between this Second Amendment and the Declaration, this Second Amendment shall control. Whenever possible, this Second Amendment and the Declaration shall be construed as a single document. Except as modified hereby, the Declaration shall remain in full force and effect.

3. Capitalized Terms. All initially capitalized terms not defined herein shall have the meaning set forth in the Declaration, except that the defined term "Declaration" is hereby modified as follows:

"Declaration" shall mean the Declaration and this Second Amendment, together with all amendments and modifications thereof.

4. Section 24.1. Housing for Older Persons. All references to "under the age of nineteen (19)" in Section 24.1 of the Declaration are hereby changed to "nineteen (19) years of age and younger" so that Section 24.1 shall read as follows:

24.1 Age of Residents; Services and Facilities. Subject to all local ordinances, as they may be amended from time to time, at least eighty percent (80%) of the Homes must be occupied by at least one (1) person fifty-five (55) years of age or older. No person nineteen (19) years of age and younger may be a permanent occupant of any Home, except that persons nineteen (19) years of age and younger may be permitted to visit and temporarily reside for periods not to exceed thirty (30) days in total in any calendar year. Such temporary residency shall be governed by Rules and Regulations adopted by the Board. By way of example, if a Home is transferred by inheritance, the requirement as to one occupant of such Home being fifty-five (55) years of age or older is waived as to occupancy by the heirs so long as no permanent occupant is nineteen (19) years of age and younger and further so long as at least eighty percent (80%) of all the Homes in Baywinds are occupied by one person fifty-five (55) years of age or older. It shall be the responsibility of the Board of Association to determine whether eighty percent (80%) of the Homes in Baywinds are occupied by at least one person who is fifty-five (55) years of age or older. Subject to the terms of this Declaration, the Articles and By-Laws, the Board shall have the authority to make any additional capital improvements upon the Community Property necessary to provide facilities or services specifically designed to meet the requirements of the Fair Housing Act, as amended from time to time (the "Act"). Notwithstanding anything to the contrary set forth in this Declaration, the restriction that no person nineteen (19) years of age and younger may be a permanent occupant of any Home shall be in perpetuity and shall not be subject to amendment. The provisions of this Section are intended specifically to be consistent with, and are set forth in order to comply with the provisions of the Act, and exceptions therefrom provided by 42 U.S.C., Section 3607 regarding discrimination based on familial status, and may be amended at any time to reduce the fifty-five (55) years of age restriction if so permitted by the Act. Each Owner should be aware that up to twenty percent (20%) of the

JOINDER

BAYWINDS COMMUNITY ASSOCIATION, INC.

BAYWINDS COMMUNITY ASSOCIATION, INC. does hereby join in the First Amendment to Declaration of Restrictions and Covenants for the Baywinds Community ("First Amendment"), to which this Joinder is attached, and the terms thereof are and shall be binding upon the undersigned and its successors in title. Association acknowledges that this Joinder is for convenience only and is not to the effectiveness of the First Amendment, as Association has no right to approve the First Amendment.

IN WITNESS WHEREOF, the undersigned has executed this Joinder on this ____ day of September, 2000.

WITNESSES:

Mark Brumfield

Print Name: Mark Brumfield

Debbie L. Sager

Print Name: Debbie L. Sager

BAYWINDS COMMUNITY
ASSOCIATION, INC., a Florida not for
profit corporation

By: Robert W. Drews
Name: Robert Drews
Title: Vice President

(SEAL)

STATE OF FLORIDA)

COUNTY OF PALM BEACH)

SS:-

The foregoing instrument was acknowledged before me this 13 day of September, 2000 by Robert Drews as Vice President of BAYWINDS COMMUNITY ASSOCIATION, INC., a Florida not for profit corporation, who is personally known to me or who produced N/A as identification on behalf of the corporation.

My commission expires:



NOTARY PUBLIC, State of Florida
at Large

Print name: Sandi M Cooper

IN WITNESS WHEREOF, the undersigned, being Developer under the Declaration, has hereunto set its hand and seal this 13 day of September, 2000.

WITNESSES:

Mark B. Bunker
Print Name: Mark Bunker

Debbie L. Sauer
Print Name: Debbie L. Sauer

LENNAR LAND PARTNERS, a
Florida general partnership

By: Lennar Homes, Inc., a Florida
corporation, attorney in fact*

By: Michael Smolart
Name: Michael Smolart
Title: Vice President

{SEAL}

*pursuant to that certain Power of Attorney recorded in Official
Records Book 10092 at page 423 in the Public Records of Palm
Beach County, Florida

STATE OF FLORIDA)
) SS.:
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me this 13 day of September, 2000 by Mike Smolart as Vice President of Lennar Homes, Inc., as attorney in fact for Lennar Land Partners, a Florida general partnership, who is personally known to me or who has produced N/A as identification.

My commission expires:



Sandi M. Cooper
NOTARY PUBLIC, State of Florida
at Large
Print name: Sandi M Cooper

Original Declaration shall be construed as a single document. Except as modified hereby, the Original Declaration shall remain in full force and effect.

3. Capitalized Terms. All initially capitalized terms not defined herein shall have the meaning set forth in the Original Declaration, except that the defined term "Declaration" is hereby modified as follows:

"Declaration" shall mean the Original Declaration and this First Amendment, together with all amendments and modifications thereof.

4. Section 24.1. Housing for Older Persons. All references to eighteen (18) years of age in Section 24.1 of the Declaration are hereby changed to nineteen (19) years, so that Section 24.1 shall read as follows:

24.1 Age of Residents; Services and Facilities. Subject to all local ordinances, as they may be amended from time to time, at least eighty percent (80%) of the Homes must be occupied by at least one (1) person fifty-five (55) years of age or older. No person under the age of nineteen (19) may be a permanent occupant of any Home, except that persons under the age of nineteen (19) may be permitted to visit and temporarily reside for periods not to exceed thirty (30) days in total in any calendar year. Such temporary residency shall be governed by Rules and Regulations adopted by the Board. By way of example, if a Home is transferred by inheritance, the requirement as to one occupant of such Home being fifty-five (55) years of age or older is waived as to occupancy by the heirs so long as no permanent occupant is under the age of nineteen (19) years and further so long as at least eighty percent (80%) of all the Homes in Baywinds are occupied by one person fifty-five (55) years of age or older.

It shall be the responsibility of the Board of Association to determine whether eighty percent (80%) of the Homes in Baywinds are occupied by at least one person who is fifty-five (55) years of age or older. Subject to the terms of this Declaration, the Articles and By-Laws, the Board shall have the authority to make any additional capital improvements upon the Community Property necessary to provide facilities or services specifically designed to meet the requirements of the Fair Housing Act, as amended from time to time (the "Act"). Notwithstanding anything to the contrary set forth in this Declaration, the restriction that no person under the age of nineteen (19) years may be a permanent occupant of any Home shall be in perpetuity and shall not be subject to amendment. The provisions of this Section are intended specifically to be consistent with, and are set forth in order to comply with the provisions of the Act, and exceptions therefrom provided by 42 U.S.C., Section 3607 regarding discrimination based on familial status, and may be amended at any time to reduce the fifty-five (55) years of age restriction if so permitted by the Act. Each Owner should be aware that up to twenty percent (20%) of the Homes in Baywinds may be occupied by persons who are under the age of fifty-five (55) so long as such persons are nineteen (19) years of age or older.

CONSENT

BANK ONE, AS AGENT

BANK ONE, NA, formerly known as the First National Bank of Chicago, as Agent does hereby join in the Master Declaration of Restriction and Covenants for the Baywinds Community, for the purpose of consenting as the holder of that Mortgage Deed and Security Agreement recorded in Official Records Book 10079, Page 1550, Public Records of Palm Beach County, Florida.

IN WITNESS WHEREOF, the undersigned has executed this Consent on this _____ day of _____, 199__.

WITNESS:

BANK ONE, NA, formerly known as THE FIRST NATIONAL BANK OF CHICAGO, AS AGENT

Print Name: _____

By: _____

Name: _____

Print Name: _____

Title: _____

STATE OF _____)

) SS.:

COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 199__ by _____ of BANK ONE, NA, formerly known as the First National Bank of Chicago, as Agent, who is personally known to me or to me or who produced _____ as identification, on behalf of the corporation.

My commission expires:

NOTARY PUBLIC, State of _____

Print Name: _____

JOINDER

BAYWINDS COMMUNITY ASSOCIATION, INC.

BAYWINDS COMMUNITY ASSOCIATION, INC. ("Association") does hereby join in the Declaration of Restrictions and Covenants for the Baywinds Community ("Declaration") to which this Joinder is attached, and the terms thereof are and shall be binding upon the undersigned and its successors in title. Association acknowledges that this Joinder is for convenience only and is not to the effectiveness of the Declaration, as Association has no right to approve the Declaration.

IN WITNESS WHEREOF, the undersigned has executed this Joinder on this _____ day of _____, 2000.

WITNESSES:

BAYWINDS COMMUNITY ASSOCIATION, INC.,
a Florida not for profit corporation

Gina Hogen
Print Name: Gina Hogen

Melissa Diaz
Print Name: Melissa Diaz

By: Denise Geary
Name: Denise Geary
Title: President

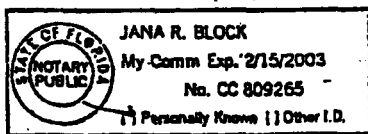
(SEAL)

STATE OF FLORIDA)
COUNTY OF PALM BEACH) SS.:

The foregoing instrument was acknowledged before me this 22nd day of Feb., 2000 by Denise Geary as President of BAYWINDS COMMUNITY ASSOCIATION, INC., a Florida not for profit corporation, who is personally known to me or who produced N/A as identification, on behalf of the corporation.

My commission expires:

Jana R. Block
NOTARY PUBLIC, State of Florida
Print name: Jana R. Block



JOINDER

LENNAR HOMES, INC.

LENNAR HOMES, INC. does hereby join in the Declaration of Restrictions and Covenants for the Baywinds Community to which this Joinder is attached, and the terms thereof are and shall be binding upon the undersigned and its successors in title.

IN WITNESS WHEREOF, the undersigned has executed this Joinder on this _____ day of _____, 2000.

WITNESSES:

LENNAR HOMES, INC., a Florida corporation

[Signature]
Print Name: Gina Hogen

[Signature]
Print Name: Melissa Diaz

By: [Signature]
Name: Doyle D. Dudley
Title: Vice-President

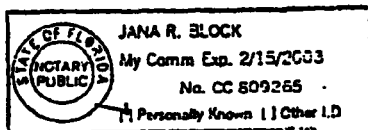
(SEAL)

STATE OF FLORIDA)
COUNTY OF Dade) SS.:

The foregoing instrument was acknowledged before me this 22nd day of Feb., 2000 by Doyle D. Dudley as Vice President of LENNAR HOMES, INC., a Florida corporation, who is personally known to me or who produced N/A as identification, on behalf of the corporation.

My commission expires:

[Signature]
NOTARY PUBLIC, State of Florida
Print name: Jana R. Block



STATE OF FLORIDA

COUNTY OF Dade

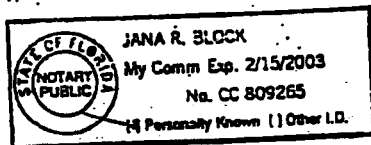
) SS.:
)

The foregoing instrument was acknowledged before me this 2nd day of February, 2000 by Doyle D. Dudley, as Vice President of Lennar Homes, Inc., a Florida corporation, attorney in fact for Lennar Land Partners, a Florida general partnership who is personally known to me or who has produced N/A as identification.

My commission expires:

Jana R. Black
NOTARY PUBLIC, State of Florida

Print name: Jana R. Black



with the amendment, modification, or termination of the Title Documents; and (ii) that such Owner has waived its right to object to or comment the form or substance of any amendment, modification, or termination of the Title Documents. Without limiting the foregoing, upon the Community Completion Date Association shall assume all of the obligations of Developer under the Title Documents unless otherwise provided by Developer by amendment to this Declaration recorded by Developer in the Public Records, from time to time, and in the sole and absolute discretion of Developer.

25.8. Construction Activities ALL OWNERS, OCCUPANTS AND USERS OF BAYWINDS ARE HEREBY PLACED ON NOTICE THAT DEVELOPER AND/OR ITS AGENTS, CONTRACTORS, SUBCONTRACTORS, LICENSEES AND OTHER DESIGNEES WILL BE, FROM TIME TO TIME, CONDUCTING EXCAVATION, CONSTRUCTION AND OTHER ACTIVITIES WITHIN OR IN PROXIMITY TO BAYWINDS BY THE ACCEPTANCE OF THEIR DEED OR OTHER CONVEYANCE OR MORTGAGE, LEASEHOLD, LICENSE OR OTHER INTEREST, AND BY USING ANY PORTION OF BAYWINDS, EACH SUCH OWNER, OCCUPANT AND USER AUTOMATICALLY ACKNOWLEDGES, STIPULATES AND AGREES (i) THAT NONE OF THE AFORESAID ACTIVITIES SHALL BE DEEMED NUISANCES OR NOXIOUS OR OFFENSIVE ACTIVITIES, HEREUNDER OR AT LAW GENERALLY, (ii) NOT TO ENTER UPON, OR ALLOW 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 BAYWINDS WHERE SUCH ACTIVITY IS BEING CONDUCTED (EVEN IF NOT BEING ACTIVELY CONDUCTED AT THE TIME OF ENTRY, SUCH AS AT NIGHT OR OTHERWISE DURING NON-WORKING HOURS), (iii) DEVELOPER AND THE OTHER AFORESAID RELATED PARTIES SHALL NOT BE LIABLE FOR ANY AND ALL LOSSES, DAMAGES (COMPENSATORY, CONSEQUENTIAL, PUNITIVE OR OTHERWISE), INJURIES OR DEATHS ARISING FROM OR RELATING TO THE AFORESAID ACTIVITIES, EXCEPT RESULTING DIRECTLY FROM DEVELOPER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, AND (iv) ANY PURCHASE OR USE OF ANY PORTION OF BAYWINDS HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING.

IN WITNESS WHEREOF, the undersigned, being Developer hereunder, has hereunto set its hand and seal this _____ day of _____, 2000.

WITNESSES:

LENNAR LAND PARTNERS, a
Florida general partnership

By: Lennar Homes, Inc., a Florida corporation,
attorney in fact*

By: Doyle D. Dunley
Name: Doyle D. Dunley
Title: Vice-President

Hagen
Print name: Hagen
Michelle Diaz
Print name: MELISSA DIAZ

(SEAL)

*pursuant to that certain Power of Attorney recorded in Official
Records Book 10092 at page 423 in the Public Records of Palm
Beach County, Florida

Baywinds Declaration
February 14, 2000

25.6. Florida Statutes. Whenever this Declaration refers to the Florida Statutes, it shall be deemed to refer to the Florida Statutes as they exist on the date this Declaration is recorded except to the extent provided otherwise as to any particular provision of the Florida Statutes.

25.7. Title Documents. Each Owner by acceptance of a deed to a Home acknowledges that such home is subject to certain land use and title documents and all amendments thereto, which may include among other items, the following documents (collectively, the "Title Documents"):

1. Resolution by Palm Beach County Fixing Setback Requirements along Okeechobee Road recorded in Deed Book 1104 at Page 155, and as amended in Deed Book 1125 at Page 442.
2. Right-of-Way of State Road No. 7, as now laid out and in use, as shown in Miscellaneous Plat Book 1 at Page 55.
3. Terms, provisions and rights in favor of together with an Easement granted to Florida Power & Light Company over the North 160 feet of Section 19, as contained in that Right-of-Way Agreement recorded in Official Records Book 1046 at Page 520.
4. Notices and Disclosures of Taxing Authority by Northern Palm Beach County Water Control District (as to payment of maintenance taxes and special assessments on an annual basis), recorded in Official Records Book 6318 at Page 1377 and Official Records Book 7631 at Page 153.
5. Restrictions, covenants and conditions as contained in the Development Agreement between Lennar Homes, Inc. and City of West Palm Beach recorded in Official Records Book 7956 at Page 1661, as amended in Official Records Book 10683 at Page 941.
6. Terms, provisions and assessment lien provisions in favor of City of West Palm Beach as contained in that Memorandum of Development Agreement for Water and Wastewater Service, recorded in Official Records Book 8790 at Page 576.
7. Deed of Conservation Easement from Lennar Homes, Inc. to Northern Palm Beach County Improvement District, dated October 15, 1997, and recorded in Official Records Book 10062 at Page 1614 as amended in Official Records Book 10864 at Page 74.
8. Utility Easement in favor of the City of West Palm Beach, Florida recorded in Official Records Book 11170 at Page 1967.
9. Blanket Water Management Easement recorded in Official Records Book 10824 at Page 816.

ALL OF THE FOREGOING RECORDED IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

Developer's plan of development for Baywinds may necessitate from time to time the further amendment, modification and/or termination of the Title Documents. DEVELOPER RESERVES THE UNCONDITIONAL RIGHT TO SEEK AMENDMENTS AND MODIFICATIONS OF THE TITLE DOCUMENTS. It is possible that a governmental subdivision or agency may require the execution of one or more documents in connection with an amendment, modification, and/or termination of the Title Documents. To the extent that such documents require the joinder of Owners other than Developer, Developer, by any one of its duly authorized officers, may, as the agent and/or the attorney-in-fact for the Owners, execute, acknowledge and deliver any documents required by applicable governmental subdivision or agency; and the Owners, by virtue of their acceptance of deeds, irrevocably nominate, constitute and appoint Developer, through any one of its duly authorized officers, as their proper and legal attorney-in-fact for such purpose. This appointment is coupled with an interest and is therefore irrevocable. Any such documents executed pursuant to this Section may recite that it is made pursuant to this Section. Notwithstanding the foregoing, each Owner agrees, by its acceptance of a deed to a Home: (i) to execute or otherwise join in any documents required in connection

24.5. **Enforcement of Provisions.** Association shall have the power and authority to enforce this Section in any legal manner available, as the Board deems appropriate, including, without limitation, taking action to evict the occupants of any Home which does not comply with the requirements and restrictions of this Section. EACH OWNER HEREBY APPOINTS ASSOCIATION AS ITS ATTORNEY-IN-FACT FOR THE PURPOSE OF TAKING LEGAL ACTION TO DISPOSSESS, EVICT OR OTHERWISE REMOVE THE OCCUPANTS OF HIS OR HER HOME AS NECESSARY TO ENFORCE COMPLIANCE WITH THIS SECTION. Each Owner shall fully and trustfully respond to any and all requests by Association for information regarding the occupancy of the Home which in the judgement of the Board are reasonably necessary to monitor compliance with this Section.

25. **General Provisions.**

25.1. **Authority of Board.** Except when a vote of the membership of Association is specifically required, all decisions, duties, and obligations of Association hereunder may be made by the Board. Association and Owners shall be bound thereby.

25.2. **Severability.** Invalidation of any of the provisions of this Declaration by judgment or court order shall in no way affect any other provision, and the remainder of this Declaration shall remain in full force and effect.

25.3. **Execution of Documents.** Developer's plan of development for the Property (including, without limitation, the creation of one (1) or more special taxing districts) may necessitate from time to time the execution of certain documents as required by governmental agencies. To the extent that said documents require the joinder of Owners other than Developer, Developer, by its duly authorized officers, may, as the agent or the attorney-in-fact for the Owners, execute, acknowledge and deliver such documents (including, without limitation, any consents or other documents required by any governmental agencies in connection with the creation of any special taxing district); and the Owners, by virtue of their acceptance of deeds, irrevocably nominate, constitute and appoint Developer, through its duly authorized officers, as their proper and legal attorneys-in-fact, for such purpose. Said appointment is coupled with an interest and is therefore irrevocable. Any such documents executed pursuant to this Section may recite that it is made pursuant to this Section. Notwithstanding the foregoing, each Owner agrees, by its acceptance of a deed to a Home or any other portion of Baywinds, to execute or otherwise join in any petition and/or other documents required in connection with the creation of a special taxing district relating to Baywinds or any portion(s) thereof.

25.4. **Affirmative Obligation of Association.** In the event that Association believes that Developer has failed in any respect to meet Developer's obligations under this Declaration or has failed to comply with any of Developer's obligations under law or the Common Areas are defective in any respect, Association shall give written notice to Developer detailing the alleged failure or defect. Association agrees that once Association has given written notice to Developer pursuant to this Section, Association shall be obligated to permit Developer and its agents to perform inspections of the Common Areas and to perform all tests and make all repairs/replacements deemed necessary by Developer to respond to such notice at all reasonable times. Association agrees that any inspection, test and/or repair/replacement scheduled on a business day between 9 a.m. and 5 p.m. shall be deemed scheduled at a reasonable time. The rights reserved in this Section include the right of Developer to repair or address, in Developer's sole option and expense, any aspect of the Common Areas deemed defective by Developer during its inspections of the Common Areas. Association's failure to give the notice and/or otherwise comply with the provisions of this Section will damage Developer. At this time, it is impossible to determine the actual damages Developer might suffer. Accordingly, if Association fails to comply with its obligations under this Section in any respect, Association shall pay to Developer liquidated damages in the amount of \$250,000.00 which Association and Developer agree are a fair and reasonable remedy.

25.5. **Notices.** Any notice required to be sent to any person, firm, or entity under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address at the time of such mailing.

entities by an instrument in writing duly executed, acknowledged, and, at Developer's option, recorded in the Public Records.

24. Housing for Older Persons.

24.1. Age of Residents, Services and Facilities. Subject to all local ordinances, as they may be amended from time to time, at least eighty percent (80%) of the Homes must be occupied by at least one (1) person fifty-five (55) years of age or older. No person under the age of eighteen (18) may be a permanent occupant of any Home, except that persons under the age of eighteen (18) may be permitted to visit and temporarily reside for periods not to exceed thirty (30) days in total in any calendar year. Such temporary residency shall be governed by Rules and Regulations adopted by the Board. By way of example, if a Home is transferred by inheritance, the requirement as to one occupant of such Home being fifty-five (55) years of age or older is waived as to occupancy by the heirs so long as no permanent occupant is under the age of eighteen (18) years and further so long as at least eighty percent (80%) of all the Homes in Baywinds are occupied by one person fifty-five (55) years of age or older. It shall be the responsibility of the Board of Association to determine whether eighty percent (80%) of the Homes in Baywinds are occupied by at least one person who is fifty-five (55) years of age or older. Subject to the terms of this Declaration, the Articles and By-Laws, the Board shall have the authority to make any additional capital improvements upon the Community Property necessary to provide facilities or services specifically designed to meet the requirements of the Fair Housing Act, as amended from time to time (the "Act"). Notwithstanding anything to the contrary set forth in this Declaration, the restriction that no person under the age of eighteen (18) years may be a permanent occupant of any Home shall be in perpetuity and shall not be subject to amendment. The provisions of this Section are intended specifically to be consistent with, and are set forth in order to comply with the provisions of the Act, and exceptions therefrom provided by 42 U.S.C., Section 3607, regarding discrimination based on familial status, and may be amended at any time to reduce the fifty-five (55) years of age restriction if so permitted by the Act. Each Owner should be aware that up to twenty percent (20%) of the Homes in Baywinds may be occupied by persons who are under the age of fifty-five (55) so long as such persons are eighteen (18) years of age or older.

24.2. Sale or Lease. This Section shall in no way be deemed to restrict the ownership of any Home; provided, however, no Owner may occupy a Home nor permit occupancy of a Home except in compliance with the requirements of this Section. Owners shall be responsible for including the statement that the Homes within Baywinds are intended for occupancy by persons fifty-five (55) years of age or older, as set forth above, in conspicuous type in any lease or other occupancy agreement or contract of sale relating to such Owner's Home, which agreements or contracts shall be in writing and signed by the tenant or purchaser, and for clearly disclosing such interest to any prospective tenant, purchaser or other potential occupant of the Home. Every lease of a Home shall provide that failure to comply with the requirements and restrictions of this Section shall constitute a default under the lease.

24.3. Change of Occupancy. In the event of any change in occupancy of any Home, as a result of transfer, sale, gift, lease, sublease, assignment, death, birth, marriage, separation, divorce, or otherwise, the Owner of such Home shall immediately notify the Board in writing and provide to the Board the names and ages of all current occupants of the Home and such other information so the Board may reasonably require to verify the age of each occupant. In the event that an Owner fails to notify the Board and provide all required information within ten (10) days after a change in occupancy occurs, Association shall be authorized to levy monetary fines against the Owner and the Home for each day the change in occupancy occurs until Association receives the required action and information, regardless of whether the occupants continue to meet the requirements of this Section, in addition to all other remedies available to Association under this Declaration.

24.4. Maintaining Age Records. Association shall be responsible for maintaining age records on all occupants of Homes. The Board shall adopt policies, procedures and rules to monitor and maintain compliance with this Section, including policies regarding visitors, conducting a census of the occupants of Homes, requiring copies of birth certificates or other proof of age for each occupant of the Home to be provided to the Board on a periodic basis, updating age records as appropriate, the granting of exemptions pursuant to this Section, and enforcement. Association shall periodically distribute such policies, procedures and rules to the Owners and make copies available to Owners, their tenants and mortgagees upon reasonable request.

REASON OF FAILURE TO PROVIDE ADEQUATE ACCESS CONTROL OR INEFFECTIVENESS OF ACCESS CONTROL MEASURES UNDERTAKEN.

21.16.2. Components. The Monitoring System, if installed, may include one or more manned gatehouses, one or more electronic gates, and roving attendants using vehicles. Association and Developer do not warrant or guaranty in any manner that the system will include these items, but reserve the right to install or provide the foregoing items, or any other items they deem appropriate in their sole and absolute discretion. After the Community Completion Date, Association may expand the Monitoring System by a vote of the majority of the Board, without the joinder or consent of the Owners or any third parties. Without limiting the foregoing, Developer and Association reserve the right to, at any time, increase, decrease, eliminate, or add manned or unmanned gates houses, information booths, sensors, gates and other access monitoring measures as they deem appropriate in their sole and absolute discretion; provided, however, no changes shall be made prior to the Community Completion Date without the prior written consent of Developer.

21.16.3. Part of Operating Costs. If furnished and installed within any Home, the cost of operating and monitoring any Monitoring System shall be included in Operating Costs of Association and shall be payable as a portion of the Assessments against Owners. The purpose of the Monitoring System will be to control access to Baywinds.

21.16.4. Club Owner. Club Owner shall have no obligation to pay any part of the costs of installing, maintaining, or replacing the Monitoring System. In the event that the system requires that each Owner accessing Baywinds use a card to enter Baywinds, each employee, the Manager, and each Member of the Club (as such terms are defined in the Club Covenants) shall also be entitled to such a card upon payment to Association of the actual cost of such card plus a reasonable administrative expense.

21.16.5. Owners' Responsibility. All Owners and occupants of any Home, and the tenants, guests and invitees of any Owner, as applicable, acknowledge that Association, its Board and officers, Developer, or Club Owner, their nominees or assigns, or any successor Developer, and the ACC and its members, do not represent or warrant that (a) any Monitoring System, designated by or installed according to guidelines established, will not be compromised or circumvented, (b) any Monitoring System will prevent loss by fire, smoke, burglary, theft, hold-up, or otherwise, and/or (c) the Monitoring System will in all cases provide the detection for which the system is designed or intended. In the event that Developer elects to provide a Monitoring System, Developer shall not be liable to the Owners or Association with respect to such Monitoring System, and the Owners and Association shall not make any claim against Developer for any loss that an Owner or Association may incur by reason of break-ins, burglaries, acts of vandalism, personal injury or death, which are not detected or prevented by the Monitoring System. Each Owner and Association are responsible for protecting and insuring themselves in connection with such acts or incidents. The provision of a Monitoring System (including any type of gatehouse) shall in no manner constitute a warranty or representation as to the provision of or level of security within Baywinds or any residential subdivision contained therein. Developer, Builder, the Neighborhood Associations and Association do not guaranty or warrant, expressly or by implication, the merchantability of fitness for use of any Community Monitoring System, or that any such system (or any of its components or related services) will prevent intrusions, fires, or other occurrences, regardless of whether or not the Monitoring Service is designed to monitor the same. Each and every Owner and the occupant of each Home acknowledges that Developer, Builders, the Neighborhood Associations and Association, their employees, agents, managers, directors, and officers, are not insurers of Owners or Homes, or the personal property located within Homes. Developer, Builders, the Neighborhood Associations and Association will not be responsible or liable for losses, injuries, or deaths resulting from any such events.

22. Refund of Taxes and Other Charges. Unless otherwise provided herein, Association agrees that any taxes, fees or other charges paid by Developer to any governmental authority, utility company or any other entity which at a later date are refunded in whole or in part, shall be returned to Developer in the event such refund is received by Association.

23. Assignment of Powers. All or any part of the rights, exemptions and powers and reservations of Developer or Club Owner, as the case may be, herein contained may be conveyed or assigned in whole or part to other persons or

PROTECTION, ENFORCEMENT ACTION OR OMISSION OF ANY PARTY SHOULD BE HEARD IN A COURT PROCEEDING BY A JUDGE AND NOT A JURY IN ORDER TO BEST SERVE JUSTICE. DEVELOPER HEREBY SUGGESTS THAT EACH OWNER UNDERSTAND THE LEGAL CONSEQUENCES OF ACCEPTING A DEED TO A HOME.

21.13. Venue. EACH OWNER ACKNOWLEDGES REGARDLESS OF WHERE SUCH OWNER (i) EXECUTED A PURCHASE AND SALE AGREEMENT, (ii) RESIDES, (iii) OBTAINS FINANCING OR (iv) CLOSED ON A HOME, THIS DECLARATION LEGALLY AND FACTUALLY WAS EXECUTED IN PALM BEACH COUNTY, FLORIDA. DEVELOPER HAS AN OFFICE IN PALM BEACH COUNTY, FLORIDA AND EACH HOME IS LOCATED IN PALM BEACH COUNTY, FLORIDA. ACCORDINGLY, AN IRREFUTABLE PRESUMPTION EXISTS THAT THE ONLY APPROPRIATE VENUE FOR THE RESOLUTION OF ANY DISPUTE LIES IN PALM BEACH COUNTY, FLORIDA. IN ADDITION TO THE FOREGOING, EACH OWNER AND DEVELOPER AGREE THAT THE VENUE FOR RESOLUTION OF ANY DISPUTE LIES IN PALM BEACH COUNTY, FLORIDA.

21.14. Reliance. BEFORE ACCEPTING A DEED TO A HOME, EACH OWNER HAS AN OBLIGATION TO RETAIN AN ATTORNEY IN ORDER TO CONFIRM THE VALIDITY OF THIS DECLARATION. BY ACCEPTANCE OF A DEED TO A HOME, EACH OWNER ACKNOWLEDGES THAT HE HAS SOUGHT AND RECEIVED SUCH AN OPINION OR HAS MADE AN AFFIRMATIVE DECISION NOT TO SEEK SUCH AN OPINION. DEVELOPER IS RELYING ON EACH OWNER CONFIRMING IN ADVANCE OF ACQUIRING A HOME THAT THIS DECLARATION IS VALID, FAIR AND ENFORCEABLE. SUCH RELIANCE IS DETRIMENTAL TO DEVELOPER. ACCORDINGLY, AN ESTOPPEL AND WAIVER EXISTS PROHIBITING EACH OWNER FROM TAKING THE POSITION THAT ANY PROVISION OF THIS DECLARATION IS INVALID IN ANY RESPECT. AS A FURTHER MATERIAL INDUCEMENT FOR DEVELOPER TO SUBJECT BAYWINDS TO THIS DECLARATION, EACH OWNER DOES HEREBY RELEASE, WAIVE, DISCHARGE, COVENANT NOT TO SUE, ACQUIT, SATISFY AND FOREVER DISCHARGE DEVELOPER, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS AND ITS AFFILIATES AND ASSIGNS FROM ANY AND ALL LIABILITY, CLAIMS, COUNTERCLAIMS, DEFENSES, ACTIONS, CAUSES OF ACTION, SUITS, CONTROVERSIES, AGREEMENTS, PROMISES AND DEMANDS WHATSOEVER IN LAW OR IN EQUITY WHICH AN OWNER MAY HAVE IN THE FUTURE, OR WHICH ANY PERSONAL REPRESENTATIVE, SUCCESSOR, HEIR OR ASSIGN OF OWNER HEREAFTER CAN, SHALL OR MAY HAVE AGAINST DEVELOPER, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS, AND ITS AFFILIATES AND ASSIGNS, FOR, UPON OR BY REASON OF ANY MATTER, CAUSE OR THING WHATSOEVER RESPECTING THIS DECLARATION, OR THE EXHIBITS HERETO. THIS RELEASE AND WAIVER IS INTENDED TO BE AS BROAD AND INCLUSIVE AS PERMITTED BY THE LAWS OF THE STATE OF FLORIDA.

21.15. Duration of Rights. The rights of Developer set forth in this Declaration shall, unless specifically provided to the contrary herein, extend for a period of time ending upon the earlier of: (i) when neither Developer nor any affiliate of Developer has any further interest of any kind in Baywinds; or (ii) a relinquishment by Developer in an amendment to the Declaration placed in the Public Records.

21.16. Monitoring System.

21.16.1. Right to Install. Association shall have the right, but not the obligation, to contract for the installation of a Monitoring System for each Home within Baywinds. Prior to the Community Completion Date, all contracts for Monitoring Systems shall be subject to the prior written approval of Developer. Developer or its nominees, successors, assigns, affiliates, and licensees may install such a Monitoring System. Developer reserves the right, at any time and in its sole discretion, to discontinue or terminate any Monitoring System prior to the Community Completion Date. In addition, all Owners specifically acknowledge that Baywinds may have a perimeter access control system, such as fences, walls, hedges, or the like on certain perimeter areas. ASSOCIATION, NEIGHBORHOOD ASSOCIATIONS, CLUB OWNER, AND DEVELOPER SHALL NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY

hereunder. All reasonable expenses incurred by Association in connection with such restoration shall be paid by Telecommunications Provider within twenty (20) days of completion of restoration and delivery to Telecommunications Provider of Association's invoice therefor. Any expenses not so paid when due shall bear interest from the due date at the lesser of (i) the publicly announced prime rate (or similar successor reference rate) of First Union National Bank on the date of such invoice, or (ii) the maximum rate of interest allowed by the law of the State of Florida for such obligations, or as may be provided in any agreement between Telecommunications Provider and Association:

21.11. Non-Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE ASSOCIATION DOCUMENTS, ASSOCIATION SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF BAYWINDS INCLUDING, WITHOUT LIMITATION, RESIDENTS AND THEIR FAMILIES, GUESTS, LESSEES, LICENSEES, INVITEES, AGENTS, SERVANTS, CONTRACTORS, AND/OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

21.11.1. IT IS THE EXPRESS INTENT OF THE ASSOCIATION DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH ARE ENFORCEABLE BY ASSOCIATION AND WHICH GOVERN OR REGULATE THE USES OF BAYWINDS HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF BAYWINDS AND THE VALUE THEREOF; AND

21.11.2. ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED, TO ACT AS AN AGENCY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE STATE OF FLORIDA AND/OR PALM BEACH COUNTY OR PREVENTS TORTIOUS ACTIVITIES; AND

21.11.3. THE PROVISIONS OF THE ASSOCIATION DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY, AND WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF THE ASSOCIATION TO PROTECT OR FURTHER THE HEALTH, SAFETY, OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

EACH OWNER (BY VIRTUE OF HIS ACCEPTANCE OF TITLE TO A HOME) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING A USE OF, ANY PORTION OF BAYWINDS (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USE) SHALL BE BOUND BY THIS SECTION AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF THE ASSOCIATION HAS BEEN DISCLAIMED IN THIS SECTION OR OTHERWISE. AS USED IN THIS SECTION, "ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING ALL OF ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE AND BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES, SUBCONTRACTORS, SUCCESSORS AND ASSIGNS).

21.12. Resolution of Disputes. BY ACCEPTANCE OF A DEED, EACH OWNER AGREES THAT THE ASSOCIATION DOCUMENTS ARE VERY COMPLEX; THEREFORE, ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION, WITH RESPECT TO ANY ACTION, PROCEEDING, CLAIM, COUNTERCLAIM, OR CROSS CLAIM, WHETHER IN CONTRACT AND/OR IN TORT (REGARDLESS IF THE TORT ACTION IS PRESENTLY RECOGNIZED OR NOT), BASED ON, ARISING OUT OF, IN CONNECTION WITH OR IN ANY WAY RELATED TO ASSOCIATION DOCUMENTS, INCLUDING ANY COURSE OF CONDUCT, COURSE OF DEALING, VERBAL OR WRITTEN STATEMENT, VALIDATION,

improvements upon their creation, may share in the use of all or some of the Common Areas and/or Club and other facilities and/or roadways which remain subject to this Declaration. The expense of the operation of such facilities shall be allocated to the various users thereof, if at all, as determined by Developer.

21.9. Representations. Developer makes no representations concerning development both within and outside the boundaries of Baywinds including, but not limited to, the number, design, boundaries, configuration and arrangements, prices of all Parcels or Homes or Club and buildings in all other proposed forms of ownership and/or other improvements on Baywinds or in Baywinds or adjacent to or near Baywinds, including, but not limited to, the size, location, configuration, elevations, design, building materials, height, view, airspace, number of homes, number of buildings, location of easements, parking and landscaped areas, services and amenities offered.

21.10. Telecommunication Services.

21.10.1. Right to Contract for Telecommunications Services. Association shall have the right, but not the obligation, to enter into one or more contracts for the provision of one or more Telecommunications Services for all or any part of Baywinds. Prior to the Community Completion Date, all contracts between a Telecommunications Provider and Association shall be subject to the prior written approval of Developer. Developer and/or its nominees, successors, assigns, affiliates, and licensees may contract with Association and act as a Telecommunications Provider for one or more Telecommunications Services, subject only to the requirements of all applicable laws, statutes, and regulations. If Developer is not the Telecommunications Provider for any particular Telecommunications Service, Developer shall have the right to receive, on a perpetual basis, all or a portion of access fees and/or the revenues derived from such Telecommunications Service within Baywinds as agreed, from time to time, between the Telecommunications Provider and Developer, provided, however, that no such fees may be imposed on a Telecommunications Provider except as provided in any written agreement between such Telecommunications Provider and Developer and/or Association. Without limiting the foregoing, Association has entered into an agreement with Adelphia for Telecommunications Services (the "Adelphia Agreement"). Adelphia and Developer have entered into a separate agreement whereby Adelphia will make certain payments and give certain concessions to Developer in consideration of Developer causing Association to enter into the Adelphia Agreement. Association shall have no interest in such payments or concessions.

21.10.2. Easements. Developer (i) reserves unto itself and its nominees, successors, assigns, affiliates, and licensees, and (ii) grants to each Telecommunications Provider that has entered into an agreement with Association respecting Telecommunications Services and/or Telecommunications Systems a perpetual right, privilege, easement and right-of-way across, over, under and upon Baywinds for the installation, construction and maintenance of Telecommunications Systems together with a perpetual right, privilege and easement of ingress and egress, access, over and upon Baywinds for installing, constructing, inspecting, maintaining, altering, moving, improving and replacing facilities and equipment constituting such Telecommunications Systems. If, and to the extent, Telecommunications Services provided by such Telecommunications Providers are to serve all of Baywinds, then the amounts payable to such Telecommunications Providers under their written agreements with Association shall be part of Operating Costs of Association and shall be assessed as a part of the Assessments.

21.10.3. Restoration. Upon the completion of any installation, upgrade, maintenance, repair, or removal of the Telecommunications Systems or any part thereof, each Telecommunications Provider shall restore the relevant portion of the Common Areas and/or any Home to as good a condition as that which existed prior to such installation, maintenance, repair or removal. Failure by Telecommunications Provider to commence such restoration within twenty (20) days after receiving written notice from Association of such failure or the Telecommunications Provider's failure to complete such restoration within ninety (90) days of commencement shall vest in Association the right (but not the obligation) to restore or cause to be restored such portion of the Common Areas and/or Home disturbed by such work, all at such Telecommunications Provider's sole cost and expense, except for in emergency situations whereby Association may restore or cause to be restored such disturbed portion of the Common Areas and/or Home immediately. In the event that Association exercises the right of self-help, each Telecommunications Provider agrees in advance that Association shall have the sole right to (i) select the contractors to perform such work and (ii) determine the extent of required restoration. This remedy of self-help is in addition to all other remedies of Association.

Common Areas, grant easements, dedications, agreements, licenses, restrictions, reservations, covenants, rights-of-way, and to take such other actions which Developer, or its agents, affiliates, or assignees may deem necessary or appropriate. Association and Owners shall, at the request of Developer, execute and deliver any and all documents and instruments which Developer deems necessary or convenient, in its sole and absolute discretion, to accomplish the same.

21.3. **Promotional Events.** Prior to the Community Completion Date, Developer shall have the right, at any time, to hold marketing and promotional events within Baywinds and/or on the Common Areas or Club, without any charge for use. Developer, its agents, affiliates, or assignees shall have the right to market Baywinds and Homes in advertisements and other media by making reference to Baywinds, including, but not limited to, pictures or drawings of Baywinds, the Club, Common Areas, Parcels and Homes constructed in Baywinds. All logos, trademarks, and designs used in connection with Baywinds are the property of Developer, and the Association shall have no right to use the same after the Community Completion Date except with the express written permission of Developer. Without limiting any other provision of this Declaration, Developer may assign its rights hereunder to each Builder.

21.4. **Use by Prospective Purchasers.** Prior to the Community Completion Date, Developer shall have the right, without charge, to use the Common Areas for the purpose of entertaining prospective purchasers of Homes, or other properties owned by Developer outside of Baywinds.

21.5. **Franchises.** Developer may grant franchises or concessions to commercial concerns on all or part of the Common Areas and shall be entitled to all income derived therefrom.

21.6. **Easements.** Until the Community Completion Date, Developer reserves the exclusive right to grant, in its sole discretion, easements, permits and/or licenses for ingress and egress, drainage, utilities service, maintenance, Telecommunication Services; and other purposes over, upon, and across Baywinds so long as any said easements do not materially and adversely interfere with the intended use of Homes previously conveyed to Owners. By way of example, and not of limitation, Developer may be required to take certain action, or make additions or modifications to the Common Areas in connection with an environmental program. All easements necessary for such purposes are reserved in favor of Developer, in perpetuity, for such purposes. Without limiting the foregoing, Developer may relocate any easement affecting a Home, or grant new easements over a Home, after conveyance to an Owner, without the joinder or consent of such Owner, so long as the grant of easement or relocation of easement does not materially and adversely affect the Owner's use of the Home as a residence. As an illustration, Developer may grant as easement for Telecommunication Systems, irrigation, drainage lines or electrical lines over any portion of a Parcel so long as such easement is outside the footprint of the foundation of any residential improvement constructed on such Parcel. Developer shall have the sole right to any fees of any nature associated therewith, including, but not limited to, license or similar fees on account thereof. Association and Owners will, without charge, if requested by Developer: (a) join in the creation of such easements, etc. and cooperate in the operation thereof; and (b) collect and remit fees associated therewith, if any, to the appropriate party. Association will not grant any easements, permits or licenses to any other entity providing the same services as those granted by Developer, nor will it grant any such easement, permit or license prior to the Community Completion Date without the prior written consent of Developer which may be granted or denied in its sole discretion.

21.7. **Right to Enforce.** Developer has the right, but not the obligation, to enforce the provisions of this Declaration and the Community Standards and to recover all costs relating thereto, including attorneys' fees and paraprofessional fees at all levels of proceeding, including appeals, collections and bankruptcy. Such right shall include the right to perform the obligations of Association and to recover all costs incurred in doing so. The Club Owner shall also have such rights relating to the Club and/or Club Charges.

21.8. **Additional Development.** If Developer withdraws portions of Baywinds from the operation of this Declaration, Developer may, but is not required to, subject to governmental approvals, create other forms of residential property ownership or other improvements of any nature on the property not subjected to or withdrawn from the operation of this Declaration. Developer shall not be liable or responsible to any person or entity on account of its decision to do so or to provide, or fail to provide, the amenities and/or facilities which were originally planned to be included in such areas. If so designated by Developer, owners or tenants of such other forms of housing or

20.2.3. Take any and all action reasonably necessary to correct the violation or breach.

All expenses incurred in connection with the violation or breach, or the commencement of any action against any Owner, including reasonable attorneys' fees and paraprofessional fees at all levels including appeals, collections and bankruptcy, shall be assessed against the Owner, as an Individual Assessment, and shall be immediately due and payable without further notice.

20.3. No Waiver. The failure to enforce any right, provision, covenant or condition in this Declaration, shall not constitute a waiver of the right to enforce such right, provision, covenant or condition in the future.

20.4. Rights Cumulative. All rights, remedies, and privileges granted to Developer, Club Owner, Association and/or the ACC pursuant to any terms, provisions, covenants or conditions of this Declaration, or Community Standards, shall be deemed to be cumulative, and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude any of them from pursuing such additional remedies, rights or privileges as may be granted or as it might have by law.

20.5. Enforcement By or Against Other Persons. In addition to the foregoing, this Declaration or Community Standards may be enforced by Developer and/or, where applicable, Club Owner, Owners and/or Association by any procedure at law or in equity against any person violating or attempting to violate any provision herein, to restrain such violation, to require compliance with the provisions contained herein, to recover damages, or to enforce any lien created herein. The expense of any litigation to enforce this Declaration or Community Standards shall be borne by the person against whom enforcement is sought, provided such proceeding results in a finding that such person was in violation of this Declaration or the Community Standards.

20.6. Fines. Except to the extent prohibited by law, in the event of a violation of the provisions contained herein by an Owner or a person acting by, through, or under an Owner, the Rules and Regulations, the Community Standards, or other rules and regulations promulgated by the ACC, Association shall also have the right to levy reasonable fines or suspend the privileges of the Owner or any person acting by, through, or under an Owner. Each fine shall be an Individual Assessment and enforceable pursuant to the provisions of this Declaration and the By-Laws. Each day of an Owner's failure to comply with this Declaration, the Rules and Regulations, the Community Standards, or other rules and regulations promulgated by the ACC shall be treated as a separate violation and, be subject to a separate fine. The decisions of Association shall be final. Fines shall be in such reasonable and uniform amounts as Association shall determine. Suspensions and fines shall be imposed in the manner provided in Section 617.305 of the Florida Statutes, as amended from time to time. The Board shall have the authority to promulgate additional procedures from time to time.

21. Additional Rights of Developer.

21.1. Sales and Administrative Offices. Developer, Builder and their assigns shall have the perpetual right to take such action reasonably necessary to transact any business necessary to consummate the development of Baywinds and sales and re-sales of Homes and/or other properties owned by Developer or others outside of Baywinds. This right shall include, but not be limited to, the right to maintain models, sales offices and parking associated therewith, have signs on any portion of Baywinds, including Common Areas and the Club, employees in the models and offices without the payment of rent or any other fee, maintain offices in models and use of the Common Areas and the Club to show Homes. The sales office and signs and all items pertaining to development and sales remain the property of Developer. Developer shall have all of the foregoing rights without charge or expense. Without limiting any other provision of this Declaration, The rights reserved hereunder shall extend beyond the Community Completion Date.

21.2. Modification. The development and marketing of Baywinds will continue as deemed appropriate in Developer's sole discretion, and nothing in this Declaration or Community Standards, or otherwise, shall be construed to limit or restrict such development and marketing. It may be necessary or convenient for the development of Baywinds to, as an example and not a limitation, amend a Plat and/or the Master Plan, modify the boundary lines of the