


**DECLARATION OF COVENANTS, RESTRICTIONS
AND EASEMENTS FOR**

CITYPLACE TOWNHOUSES

CITYPLACE RESIDENTIAL L.L.C.

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NOT A CERTIFIED COPY

THIS DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR CITYPLACE TOWNHOUSES ("Declaration") is made as of the day and year written below by CITYPLACE RESIDENTIAL, L.L.C., a Delaware limited liability company ("Declarant" as hereinafter defined), and joined in by CityPlace Townhouse POA, Inc. ("Association" as hereinafter defined).

Declarant has developed or is in the process of developing a community of townhouses to be commonly known as CityPlace Townhouses ("Community"). The purpose of this Declaration is to provide various use and maintenance requirements and restrictions in the best interest of the Owners of Homes within the Community and to preserve and protect the values of the Community Lands (as hereinafter defined). This Declaration also will serve to establish the Association as the entity charged with the ownership of the Common Areas, the operation and/or maintenance of various portions of the Community Lands and the improvements constructed thereon, the enforcement of the terms and provisions of this Declaration, and other various other rights and responsibilities as described hereinafter. The expenses of the Association will be shared by the Owners of Homes constructed on the Community Lands, who, along with the Declarant, will be Members of the Association.

As of date of recordation of this Declaration, Declarant owns the leasehold interest in the Community Lands as hereinafter defined pursuant to the provisions of that certain Severance Lease by and between the West Palm Beach Community Redevelopment Agency ("CRA") as Lessor and Declarant as Lessee, dated December 2, 1998 as subsequently modified by First Amendment to Severance Lease, dated July 26, 1999, and Second Amendment dated November 29, 1999, together with Memorandum of the foregoing recorded September 16, 1999 in Official Records Book 11346, at page 873, refiled in Official Records Book 11363, at page 314 and as amended by Amended and Restated Memorandum of Severance Lease recorded in Official Records Book 11515, page 638 of the Public Records of the County as hereinafter defined (as amended and restated, the "Lease"). As of the date of this Declaration, the CRA owns the fee interest in the Community Lands subject to the provisions of the Lease. Declarant and CRA, by execution of a consent instrument attached hereto and made a part hereof, acknowledge and affirm that Declarant, under the terms of the Lease, has an undisputed option to purchase the Community Lands such that the Community Lands will be released from the provisions of the Lease and Declarant shall be the fee owner of the applicable Community Lands prior to any conveyance of any Common Area, Lot, or Home to a purchaser hereunder. Declarant and the CRA acknowledge that it is the intent of Declarant to exercise its option to purchase the Community Lands in accordance with the foregoing sentence, on a Lot, Home or Common Area basis, in whole or in part, and upon the exercise of such option, in whole or part, Declarant shall execute and record an amendment to this Declaration reflecting the release of such properties from the provisions of the Lease and the dedication of the fee interest in such lands to the provisions of this Declaration. Any purchase agreement executed by Declarant alone shall be sufficient to create an enforceable contract for purposes of conveyance of both the fee interest and leasehold interest subject to the provisions of this Declaration, by the joinder of the CRA to the provisions of this Declaration. Declarant submits to the provisions of this Declaration on this date the leasehold interest and any and all right, title and interest of Declarant in and to the fee interest in the Community Lands which shall arise upon any exercise of the option by Declarant pursuant to the provisions of the Lease and the execution and recordation of an amendment to this Declaration reflecting the release of any or all of the Community Lands from the provisions of the Lease shall be evidence and ratification of the fee simple interest in the Community Lands being subjected to the terms and provisions of this Declaration without the further joinder, consent or execution of any other party.

NOW, THEREFORE, Declarant, and, solely to the extent necessary to consent to the submission of the Community Lands to the provisions of this Declaration and in order to subject the leasehold interest in the Community Lands to the provisions of this Declaration, by virtue of execution of a consent instrument attached hereto and made a part hereof, the CRA, do hereby declare that the leasehold interest in Community Lands (as hereinafter defined) and such additions as may, in the future, be made subject to the terms of the Declaration, shall be held, transferred, sold, conveyed, leased, mortgaged, occupied, used and otherwise dealt with subject to the terms and conditions of this Declaration, all of which are created in the best interest of the Owners and residents of the Community Lands, and which will

run with the Community Lands and shall be binding upon all persons having and/or acquiring any right, title or interest in the Community Lands or any portion thereof, and shall inure to the benefit of each and every person, from time to time, owning or holding an interest in the Community Lands, or any portion thereof.

ARTICLE 1. DEFINITIONS

The terms used in this Declaration and in the Articles and Bylaws of the Association, shall have the following meanings, unless the context otherwise requires:

1.1 **"Articles"** shall mean the Articles of Incorporation of the Association which have been filed in the office of the Secretary of State of Florida, a copy of which is attached hereto as Exhibit B and incorporated herein by this reference, as such Articles may be amended from time to time.

1.2 **"Assessments"** shall mean the charges against each Owner and such Owner's Lot as more particularly described in Article 6 hereof.

1.3 **"Association"** shall mean and refer to CityPlace Townhouse POA, Inc., a Florida not-for-profit corporation.

1.4 **"Board"** shall mean the board of directors of the Association, elected or appointed in accordance with the By-Laws of the Association.

1.5 **"By-Laws"** shall mean the By-Laws of the Association, which have been or shall be adopted by the Board substantially in the form of Exhibit C attached hereto and incorporated herein by this reference, as such By-Laws may be amended from time to time.

1.6 **"City"** shall mean the City of West Palm Beach, Florida.

1.7 **"Common Areas"** shall mean and refer to that part of the Community Lands now or hereafter actually used and designated for the exclusive or non-exclusive use and benefit of the residents in the Community, or now or hereafter owned by the Association for the common use and enjoyment of the Owners, as is or shall be defined and described in Exhibit A-1 attached hereto, which may include, but are not limited to, private roads, parking areas (if any), green areas, the surface water management system for the Community as defined by plat or appropriate governmental permit, retention area and related appurtenances and the like (if any), and entry features and electronic gates, fountains, landscaping, irrigation, perimeter walls, decorative fencing and lighting, if any, gates, fire sprinkler systems, swimming pool and cabana and which may sometimes be referred to herein as "Community Property."

1.8 **"Common Expenses"** shall mean all expenses incurred and Assessments (including Special Assessments levied against each Owner and Lot within the Community) and the actual and estimated costs of maintenance, management, operation, repair and replacement of the Common Areas, including, without limitation: the costs of any and all utility charges for the Common Areas; costs of management and administration of the Association (including, without limitation, compensation paid by the Association to managers, accountants, attorneys and other employees); the cost of all gardening and landscaping of the Common Areas; the cost of maintenance, operation, repair and replacement of equipment furnishing lighting for the Common Areas and the cost of owning or leasing lights for the private roadways (if any); the cost of maintenance, operation, repair and replacement of any perimeter walls or decorative fencing, the cost of fire, casualty and liability insurance, workers' compensation insurance, and other insurance covering the Common Areas and the Association; the cost of bonding persons who handle monies of the Association; taxes paid by the Association (including real property taxes for the Common Areas); amounts paid by the Association for discharge of any lien or encumbrance levied against the Common Areas, or portions thereof; and the costs of any other item or items incurred by the

Association for any reason whatsoever in connection with the Common Areas or for the benefit of the Owners.

1.9 **"Community"** shall mean the Homes, Lots and Common Areas within the Community Lands.

1.10 **"Community Lands"** shall mean and refer to the land described on Exhibit A attached hereto and any other lands made subject to this Declaration by annexation.

1.11 **"Community Standard"** shall mean the standard of conduct, maintenance, or other activity generally prevailing throughout the Community. The Community Standard may be set by the Board, and in addition the Committee may specifically determine and set forth portions of the Community Standard with regard to construction activities and improvements within the Community Lands.

1.12 **"County"** shall mean Palm Beach County, Florida.

1.13 **"Declarant"** shall mean and refer to CityPlace Residential, L.L.C., a Delaware limited liability company, and its successors and such of its assigns as to which the rights of Declarant hereunder are specifically assigned. Declarant may assign only a portion of its rights hereunder, or all or a portion of such rights in connection with appropriate portions of the Community. In the event of such a partial assignment, the assignee shall not be deemed the Declarant, but may exercise such rights of the Declarant specifically assigned to it. Any such assignment may be made on a non-exclusive basis. Except to the extent specifically provided hereinafter, Declarant shall be deemed to have automatically assigned to the Association (without requirement for any recording as otherwise provided herein).

1.14 **"Declaration"** shall mean this instrument as it may be amended from time to time.

1.15 **"First Mortgage"** shall mean a Mortgage (as defined hereinafter) recorded prior to all other Mortgages on the same property.

1.16 **"Home"** shall mean the single family dwelling constructed upon a Lot which is designated and intended for use and occupancy as a residence and which is subject to Assessments and the terms and provisions of this Declaration.

1.17 **"Lot"** shall mean and refer to those lots shown upon the recorded subdivision plat or plats of the Community Lands upon which shall be built Homes.

1.18 **"Management Company"** shall mean the person, firm or corporation, if any, operating in compliance with Chapter 468, Florida Statutes, which may be appointed by the Association pursuant to written contract and hereunder as its agent and to which is delegated certain duties, powers or functions of the Association.

1.19 **"Member"** shall mean all owners of Homes in the Community and Declarant holding a membership in the Association as provided herein.

1.20 **"Mortgage"** shall mean any mortgage encumbering a Lot. The term **"Mortgagee"** shall mean the holder of such mortgage.

1.21 **"Owner"** shall mean and refer to the person or persons or other legal entity or entities, including Declarant, holding the interest of record to any Lot (excluding such persons that merely holds record ownership as security for the performance of an obligation and the CRA), including sellers under executory contracts of sale, but excluding those having such interest merely as security for the performance of an obligation. For purposes of Article 3.1 only, unless the context otherwise requires, **"Owner"** shall include the family members, invitees, licensees and lessees of any Owner.

1.22 "Person" shall mean a natural individual or any other entity with the legal right to hold title to real property.

1.23 "Plat" shall mean and refer to the Plat of CityPlace Residential Plat No. 1 as same is recorded in Plat Book 87, Pages 137 and 138, of the Public Records of the County, as may be amended from time to time.

1.24 "Residential Property" shall collectively mean the Lots together with the Homes constructed thereon from time to time.

1.25 "Rules and Regulations" shall mean those rules and regulations for the use of the Lots, Homes and Common Areas as promulgated from time to time by the Association.

1.26 "Supplemental Declaration" shall mean any Declaration which may be recorded by Declarant for the purpose of supplementing this Declaration or for the purpose of withdrawing portions of the Community Lands or annexing additional property, all in accordance with the terms and provisions hereof.

ARTICLE 2. PROPERTY SUBJECT TO THIS DECLARATION

2.1 Legal Description. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is described in Exhibit A attached hereto and made a part hereof.

2.2 Withdrawal of Land. Declarant shall have the absolute right, but shall have no obligation, to withdraw at any time or from time to time from the effect of this Declaration any or all of that portion of the Community Lands on which there is no construction of improvements and which are owned by Declarant. The withdrawal of lands as aforesaid shall be made and evidenced by the recording in the public records of the County of a Supplemental Declaration unilaterally executed by Declarant, describing the lands to be withdrawn. Declarant reserves the right to so amend and supplement this Declaration without the consent or joinder of the Association, or of any Member and/or Mortgagee of a Lot or of any property contained within the Development. Upon the filing of such a Supplemental Declaration, all such land described therein shall be relieved from the effect of this Declaration and any restrictions, obligations or lien rights hereunder. Notwithstanding anything to the contrary set forth in this Declaration, if the Community Lands to be withdrawn are Common Areas previously conveyed or dedicated to the Association, the Association shall convey the withdrawn Community Lands back to Declarant and the approval or consent of Owners shall not be required for the Association to convey the withdrawn Community Lands back to Declarant.

2.3 Annexation of Additional Property. Additional real property may be annexed by the Declarant in whole or in part without the consent of Members, the Association or any mortgagees within 20 years of the date of this Declaration. Such annexations, if they are made, will subject the annexed real property to the terms and conditions of this Declaration. Annexations will become effective upon the recording of a Supplemental Declaration in the public records of the County. Declarant may provide for any such real property so annexed, to be Common Areas.

2.4 Conveyance of Common Areas to the Association. At such time as Declarant has conveyed title to 90% of the Lots in the Community to third parties (and subject to the provisions hereof), or such earlier time as Declarant elects, Declarant shall convey title to the Common Areas to the Association, which shall be obligated to accept such conveyance.

ARTICLE 3. PROPERTY RIGHTS

3.1 Owner's Easements of Access and Enjoyment. Subject to the provisions below, every Owner shall have a non-exclusive right to use and an easement of enjoyment in and to the Common Areas, together with an easement of access to and from and over and across the Common Areas which shall be appurtenant to and shall pass with the title to the Lot owned by such Owner, subject to the following:

3.1.1 The right of the Association to take such steps as are reasonably necessary to protect the Common Areas against foreclosure;

3.1.2 All provisions of this Declaration and the Articles and By-Laws;

3.1.3 Rules and Regulations governing the use and enjoyment of the Common Areas adopted by the Association from time to time;

3.1.4 Restrictions contained on any and all plats of all or any part of the Common Areas or filed separately with respect to all or any part or parts of the Common Areas, including the Plat;

3.1.5 The right of the Association to levy fines and to suspend voting rights for a period not to exceed 60 days; and

3.1.6 An easement as granted hereby by Declarant for the encroachment of any building or other improvement located on the Community Land or any Lot, and for the encroachment of any Home upon the Community Lands or any neighboring lot, which encroachment results from minor inaccuracies in survey, construction or reconstruction, or from settlement or movement. Any such easement for an encroachment shall include an easement in favor of the Owner of the encroachment for the maintenance, occupancy and use of the encroaching Home, building or improvement, subject to the provisions of this Declaration, whether the owner be an Owner, the Association, or any public or governmental agency, authority or utility to which any portion of the Property has been dedicated or transferred.

3.2 Easements and Reserved Rights in Favor of Declarant. Declarant reserves, for itself and its officers, employees, agents, invitees, contractors and subcontractors, and successors and assigns, easements of ingress and egress over and across the Common Areas for all purposes, including, but not limited to, the construction and sale of Lots and Homes and other improvements within the Community Lands. Further, Declarant hereby reserves the right unto itself and its successors and assigns to select the providers of cable television, telephone and other telecommunications services for the Community and the Lots thereof, and an easement is hereby reserved to Declarant, with the power to assign same to such service provider(s), over, across, under and through the Lots for purposes of installing, maintaining, repairing, replacing and/or reconstructing all lines and facilities relating, directly or indirectly, to such services provided to the Community. Each Owner, by virtue of such Owner's Lot being subject to this Declaration, and the Association hereby consent to any such determination of service made by Declarant, the results of which shall include payment for such services pursuant to agreement through Assessments levied against the Lots.

3.3 Rights of the Association. The easements granted herein shall be subject to the right of the Association to maintain, manage, operate, repair, and to establish uniform and reasonable Rules and Regulations covering the use of the Common Areas; provided, however, that the Association may not restrict the persons described in Section 3.2 hereof from the reasonable use of the Common Areas in connection with the construction and sale of Lots and Homes and other improvements upon the Community Lands.

3.4 Delegation of Use. Subject to the Rules and Regulations, an Owner may delegate, in accordance with the By-Laws, such Owner's right of ingress and egress over and across the Common Areas to such Owner's guests, invitees and family members, and to tenants and contract purchasers of his Home, and their respective guests, invitees and family members.

3.5 Easement to Public Rights-of-Way. Notwithstanding anything to the contrary set forth in this Declaration, each Owner of a Lot shall have an easement for access to and from such Owner's Lot to a public right-of-way over a paved common driveway or roadway. Declarant has an absolute obligation to construct all portions of any common driveways or roadways necessary to afford all Owners such access.

3.6 Easement for Public Service Use and Public Utilities. In addition to the foregoing easements, there shall be, and Declarant hereby reserves and covenants for itself and all Owners, easements of ingress and egress over and across the Common Areas for public services (including, without limitation, the right of the police and fire department to enter upon any part of the Common Areas for the purpose of rendering their respective services) and for agents and employees of utility companies servicing the Community.

3.7 Waiver of Use. No Owner shall be exempt from personal liability for Assessments duly levied by the Association against a Member, or release the Lot owned by him from the liens and charges hereof, by waiver of the use and enjoyment of the Common Areas or by abandonment of such Owner's Lot.

3.8 Miscellaneous Easements.

3.8.1 Perpetual easements for the installation and maintenance of utilities and drainage areas are hereby reserved to the Declarant, the City and the County in and to all utility easement and drainage easement areas shown on the Plat (which in the easements shall include, without limitation, the right of reasonable access over Lots to and from the easement areas), and the Declarant, the City and the County each shall have the right to convey such further easements on an exclusive or non-exclusive basis to any person, corporation or governmental entity. Neither the easement rights reserved pursuant to this Section or as shown on the Plat shall impose any obligation on the Declarant to maintain such easement areas, nor to install or maintain the utilities or improvements that may be located on, in or under such easements, or which may be served by such easements. Within easement areas, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with access to or the installation of the use and maintenance of the easement areas or any utilities or drainage facilities, or which may change the direction of flow or obstruct or retard the flow of drainage water in any easement areas, or which may reduce the size of any water retention areas constructed by the Declarant in such easement areas.

3.8.2 The Declarant shall have the right, but not the obligation, to construct, maintain, repair, replace or remove any fences, berms and/or landscaping or monuments or both, and shall have all easements reasonably necessary upon the property to permit the Declarant to exercise such rights. Nothing in this subsection shall be construed to obligate the Declarant to construct any such berms and/or landscaping or monuments. Any berm constructed by the Declarant on a buffer easement shall be maintained in the manner as initially constructed.

3.8.3 In the event any structure or improvement on any Lot shall encroach upon any of the Common Areas or upon any other Lot for any reason other than the intentional or negligent act of the Owner, or as otherwise provided herein, or in the event any Common Area shall encroach upon any Lot, then an easement shall exist to the extent of such encroachment for so long as the encroachment shall exist, so long as such encroachment does not unreasonably restrict the use of the Lot for residential purposes and in no manner restricts or inhibits ingress and egress to and from the Lot.

3.8.4 Declarant and each Owner shall or may have certain beneficial easements over and across certain real property close in proximity to the Community Lands in which Declarant has granted or may grant by separate shared use, access and/or easement instrument recorded, or to be recorded, in the Public Records of the County, certain easements and monetary obligations of the Association. Any and all monetary obligations pursuant to such instrument shall be a Common Expense.

ARTICLE 4. MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

4.1 Membership. Every Owner of a Lot and the Declarant shall be a Member of the Association. Notwithstanding the foregoing, any such Person who merely holds record ownership as security for the performance of an obligation shall not be a Member of the Association. Membership in the Association shall not be assignable, except to the successor-in-interest of the Member.

4.2 Voting Membership. The Association shall have two classes of voting membership:

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

4.2.2 Class B. The Class B Member shall be Declarant. The Class B Member shall be entitled to 3 votes per Lot owned by the Declarant, provided that the Class B membership shall cease and terminate on the earlier of: (a) one year after the last Lot within the Community has been sold and conveyed, (b) at any time prior to that date at the election of Declarant (which election shall be evidenced by recording of an instrument in the public records of the County to such effect), or (c) the date of transfer of control of the Association from Declarant to the Members pursuant to the provisions of Chapter 617, Florida Statutes.

ARTICLE 5. DUTIES AND POWERS OF ASSOCIATION

The Association, acting through the Board, in addition to any other powers specifically provided herein, shall have the power and duty to: (a) maintain, repair and replace the Common Areas, including, but not limited to, improvements, paving and landscaping included therein; (b) maintain, repair and replace the Homes and Lots solely as provided herein; (c) provide for, maintain and administer community services for the benefit of the Members of the Association; (d) obtain water, electricity and such other utility services as may be required for the operation of the Common Areas; (e) grant easements, rights-of-way, or strips of land, where necessary, for utility and sewer facilities over the Common Areas to serve the Common Areas and other portions of the Community; (f) maintain such policy or policies of liability and fire insurance with respect to the Common Areas, improvements therein and personal property, if any, owned by the Association or Declarant, and providing such other insurance as directed by this Declaration and the By-Laws; (g) if it chooses in its sole discretion, but with no obligation to do so, employ or contract with a Management Company to perform all or any part of the duties and responsibilities of the Association, and shall have the power to delegate its powers to committees, officers, employees and other persons, all as permitted under the Articles, the By-Laws, and Chapter 617, Florida Statutes; (h) enter into agreements for the burden and benefit of its members, being the Owners of any Lots and their respective family members, tenants, licensees and occasional social guests, including, licenses and other agreements for the use of recreational facilities located outside the Community and recreational facilities located upon the Common Areas of the Community.

In the event an Owner of any Lot shall fail to maintain the exterior of such Owner's Home or the Lot, other than those portions of the Lot to be maintained by the Association, in a manner consistent with the Community Standard, the Association shall have the right, through its agents and employees, to enter upon said Lot and to repair, maintain and restore the Lot and the Home and assess for the cost of the same, in accordance with Section 8.6 herein.

ARTICLE 6. COVENANT FOR ASSESSMENTS

6.1 Assessments Established. Each Owner of a Lot, in connection with and by acceptance of a deed to such Lot, whether or not it is so expressed in such deed, is deemed to covenant to pay to the Association:

- (a) General Assessments, as defined in Section 6.2 hereof;
- (b) Special Assessments, as defined in Section 6.5 hereof;
- (c) Specific Assessments against any particular Lot that are established pursuant to any provision of this Declaration as provided in Section 6.6 hereof; and
- (d) All taxes, if any, that from time to time may be imposed upon all or any portion of the assessments established by this Article.

All of the foregoing, together with interest and all costs and expenses of collection, including reasonable attorneys' and paralegals' fees, are a continuing charge on the land secured by a continuing lien upon the Lot against which each Assessment is made as provided in Section 6.9 hereof. Each such Assessment, together with interest and all costs and expenses of collection, including reasonable attorneys' and paralegals' fees, also is the personal obligation of the person or persons who was or were the Owner(s) of such Lot when such Assessment fell due. An Owner shall be jointly and severally liable for all unpaid Assessments that come due up to the time of transfer, but such liability is without prejudice to any right the Owner may have to recover from the previous Owner the amounts paid by the Owner.

6.2 Purpose of Assessments: General Assessment. The assessments levied by the Association must be used exclusively to promote the common good and welfare of the residents, to maintain, operate and manage the Association and the Common Areas, and to perform such duties as may be required by this Declaration and the Articles, the By-Laws or by applicable law. To effectuate the following, the Association may levy an annual general assessment ("General Assessment") to provide and be used for the operation, management and all other general activities and expenses of the Association. The General Assessment shall be collected by the Association. Collection of the General Assessment shall be vested solely in the Association pursuant to this Declaration.

6.3 Determination of General Assessment. The amount of the General Assessment shall be fixed by the Board at least 30 days in advance of each General Assessment period, and shall be based upon an adopted budget. The General Assessment period shall coincide with the Association's fiscal year. Written notice of the amount of the General Assessment should be given to every Owner, but the failure to give or receive such notice, or both, shall not invalidate any otherwise valid Assessment. The General Assessment shall be paid in advance in four equal installments without interest until delinquent (such installments being due on January 1, April 1, July 1, and October 1 of each year), and prepayable in whole at any time or times during the applicable Assessment period without penalty or other consideration; provided, however, at the discretion of the Board of Directors, the General Assessment may be collected on a monthly, semi-annual or annual basis rather than collected on a quarterly basis.

6.4 Deficit Funding. For so long as the Class "B" membership exists, Declarant may annually elect either to pay General Assessments on the Lots it owns or to pay to the Association the difference between the amount of the General Assessments collected on all other Lots subject to Assessment and the amount of actual expenditures required to operate the Association during the fiscal year. This latter option shall be referred to as the option to "deficit fund" the Common Expenses. Unless Declarant otherwise notifies the Board in writing at least sixty (60) days prior to the commencement of each fiscal year, Declarant shall be deemed to have elected to continue paying on the same basis for the upcoming fiscal year as has occurred during the immediately preceding fiscal year; however, upon thirty (30) days prior notification to the Board in writing, Declarant may terminate its election to deficit fund the Common

Expenses and may thereafter commence payment of General Assessments on the Lots it owns, and to prorate the General Assessments due by Developer commencing as of the day, sixty (60) days after its notification to the Board of its termination of deficit funding. Declarant shall be permitted to modify the manner in which it makes payments to the Association on a year-to-year basis until such time as Class "B" membership is terminated. The decision to pay General Assessments for a particular fiscal year shall not preclude Declarant from electing to deficit fund the Common Expenses in the subsequent year. In no event shall any decision of Declarant to deficit fund the Common Expenses above be interpreted to mean that no Special Assessments can be levied by the Association for matters not contemplated in the course of preparing the estimated operating budget for the then-current fiscal year. Notwithstanding any provision to the contrary, on the date of transfer of control of the Association from Declarant to the non-Declarant Members as required by Chapter 617, Florida Statutes, or upon Declarant's other permitted election to transfer control, any decision of Declarant to deficit fund shall immediately cease and become of no effect. Upon such transfer of control, Declarant shall become responsible for the payment of Assessments for the remainder of the then-applicable fiscal year and subsequent fiscal years. This paragraph shall not be amended without the prior written approval of Declarant for so long as there is Class "B" membership.

6.5 Special Assessments. In addition to the General Assessment, the Association may levy in any fiscal year a special assessment ("Special Assessment") applicable to that year only for the purpose of defraying, in whole or in part, expenses which exceeded, or when mature will exceed, the estimated operating budget allocation and on which the General Assessment was based, or as otherwise described in this Article. The purpose of a Special Assessment shall be to defray, in whole or in part, the cost of any construction, reconstruction, unexpected repair or replacement of a capital improvement or such other addition upon the Common Areas, including the necessary fixtures and personal property related thereto, provided that any such Special Assessment in excess of \$10,000.00 which pertains to capital improvements shall have the approval of a majority of the voting interests in the Association, excluding therefrom the votes of Declarant.

6.6 Specific Assessments. Any and all accrued liquidated indebtedness of any Owner to the Association arising under any provision of this Declaration also may be assessed by the Association against such Owner's Lot after such Owner fails to pay it when due and such default continues for 30 days after written notice.

6.7 Uniformity of Assessments. The General Assessment and any Special Assessment must be uniform for each Owner throughout the Community. This means that an Owner shall be assessed on the basis of a calculation determined by dividing the number one by the total number of Lots in the Community at the time the General Assessment or Special Assessment is levied.

6.8 Commencement of General Assessment. The General Assessment as to each Lot owned by a Owner other than the Declarant commences as of the date of closing of the purchase of the Lot.

6.9 Lien for Assessment. All sums assessed against any Lot (including all accelerated Assessments), together with interest and all costs and expenses of collection, including reasonable attorneys' and paralegals' fees, are secured by a lien on such Lot in favor of the Association. Such lien is subject and inferior to the lien for all sums validly secured by any First Mortgage encumbering such Lot. Except for liens for all sums validly secured by any such First Mortgage, all other lienors acquiring liens on any Lot after this Declaration is recorded are deemed to consent that such liens are inferior to the lien established by this Section, whether or not such consent is specifically set forth in the instrument creating such lien. The recordation of this Declaration constitutes constructive notice to all subsequent purchasers and/or creditors of the existence of the Association's lien and its priority, and such lien shall be strictly construed to relate back to the date of recording of this Declaration. The Association from time to time may record a Notice of Lien for the purpose of further evidencing the lien established by this Section, but neither the recording of, nor failure to record, any such notice of lien will affect the existence or priority of the Association's lien.

6.10 Certificate. Upon demand, and for a reasonable charge, the Association will furnish to any interested person a certificate signed by an officer of the Association setting forth whether the General Assessment and any Special Assessment or Specific Assessment have been paid and, if not, the unpaid balance(s).

6.11 Remedies of the Association. If any installment of a General Assessment or a Special Assessment or Specific Assessment is not paid within 15 days after it is due, the Owner responsible therefor may be required by the Association to pay a late charge of \$25.00, to the extent permitted by law. If any installment of a General Assessment or Special Assessment or a Specific Assessment is not paid within 15 days after its due date, the Board shall mail an acceleration notice to the Owner and to each first Mortgagee of a Lot which has requested a copy of the notice. The notice shall contain substantially the following information: (i) the fact that the installment is delinquent; (ii) the action required to cure the default including the amount that can be paid by the Owner to prevent a lien being filed on that Owner's Lot; (iii) a date not less than 15 days from the date the notice is mailed to the Owner, by which such default must be cured; and (iv) that failure to cure the default on or before the date specified in the notice shall result in acceleration of the balance of the installments of the Assessment for the then-current fiscal year, as may be applicable, and sale of the Lot pursuant to foreclosure of the lien securing the unpaid Assessment. The notice shall further inform the Owner of such Owner's right to cure after acceleration and to bring a court action to assert the non-existence of a default or any other defense of the Owner to acceleration and sale. If the delinquent installments of the General Assessment or a Special Assessment and any charges thereon, or a Specific Assessment, are not paid in full on or before the date specified in the notice, the Board, at its option, may declare all of the unpaid balance of the applicable Assessment to be immediately due and payable without further demand and may enforce the collection of the full Assessment, as applicable, and all charges thereon in any manner authorized by law and this Declaration.

Any Assessment not paid within 30 days after its due date shall bear interest at the rate of 18% per annum or the maximum rate allowed by law not constituting usury, whichever is higher. The Association may bring an action at law against the Owner personally obligated to pay any unpaid Assessment, or foreclose its lien against such Owner's Lot. No Owner may waive or otherwise escape liability for Assessments herein on account of non-use of the Common Areas or abandonment of the Home or Lot, regardless of occupancy. A suit to recover a money judgment for unpaid Assessments may be maintained while or without foreclosing, waiving, or otherwise impairing the security of the Association's lien or its priority.

6.12 Foreclosure. The lien for sums assessed pursuant to this Article may be enforced in the same manner in which mortgages on real property from time to time may be foreclosed in the State of Florida. In any such foreclosure, the Owner is required to pay all costs and expenses of foreclosure, including reasonable attorneys' and paralegals' fees. All such costs and expenses are secured by the lien foreclosed. The Owner also is required to pay to the Association any Assessments against the Lot that become due during the period of foreclosure, which Assessments also are secured by the lien foreclosed and accounted on a pro rata basis and paid as of the date the Owner's title is divested by foreclosure. The Association has the right and power to bid at the foreclosure or other legal sale to acquire the Lot foreclosed, or to acquire such Lot by deed or other proceeding in lieu of foreclosure, and thereafter to hold, convey, lease, rent, encumber, use, and otherwise deal with such Lot as its Owner. If any foreclosure sale results in a deficiency, the court having jurisdiction over the foreclosure may enter a personal judgment against the Owner for such deficiency. The Association shall be entitled to the appointment of a receiver to collect rent during the pendency of a foreclosure action.

6.13 Notice of Claim of Lien. No action shall be brought to enforce any Assessment lien herein, unless at least 30 days has expired following the date a Notice of Claim of Lien is deposited in the United States mail, and copy thereof has been recorded by the Association in the public records of the County. Said Notice of Claim of Lien must recite a good and sufficient legal description of any such Lot, the record owner or reputed Owner thereof, the amount claimed (which shall include interest on the unpaid Assessment pursuant to Section 6.11 hereof, plus reasonable attorneys' and paralegals' fees, late

charges and expenses of collection in connection with the debt secured by said lien), and the name and address of the Association or its agent. Such Notice of Claim of Lien shall be signed and acknowledged by an officer of the Association.

6.14 Curing of Default. Upon the timely cure of any default for which a Notice of Claim of Lien was filed by the Association, the Association shall record an appropriate Release of Lien, upon payment by the defaulting owner for a fee, to be determined by the Association, but not to exceed \$150.00, exclusive of attorneys' and paralegals' fees and costs. A certificate executed and acknowledged by the Board or its agent stating the indebtedness secured by the liens upon any Lot created hereunder shall be conclusive upon the Association and the Owners as to the amount of such indebtedness as of the date of the certificate, in favor of all persons who rely thereon in good faith. Such certificate shall be furnished to any Owner upon request at a reasonable fee, not to exceed \$50.00.

6.15 Subordination of Lien. Except where a notice of lien has been filed in the public records of the County prior to the recording of a First Mortgage, the lien for the Assessments provided in this Article is subordinate to the lien of any such First Mortgage. Sale or transfer of any Lot does not affect the Assessment lien. The Association may give any encumbrancer of record 30 days' notice within which to cure such delinquency before instituting foreclosure proceedings against the Lot. Any encumbrancer holding a lien on a Lot may pay, but is not required to pay, any amounts secured by the lien established by this Article; upon such payment, such encumbrances will be subrogated to all rights of the Association with respect to such lien, including priority, to the extent payment is made to the Association by the subrogee.

6.16 Cumulative Remedies. The lien and the right to foreclose and sell pursuant to this Article shall be in addition to and not in substitution for all other rights and remedies which the Association and its assigns may have hereunder and by law, including a suit to recover a money judgment for unpaid Assessments as above provided.

6.17 Homesteads. By acceptance of a deed to any Lot, each Owner is deemed to acknowledge conclusively and consent that all Assessments established pursuant to this Article are for the improvement and maintenance of any homestead thereon and that the Association's lien has priority over any such homestead.

6.18 Estimated Operating Budget. The Board shall, from time to time, but at least annually, fix and determine an estimated operating budget representing the sum or sums necessary and adequate for the continued operation of the Association, and shall send a copy of the budget and any supplement to the budget to each Owner or a written notice that a copy of the budget is available without charge to the Owner upon request. The Board shall determine the total amount required, including the operational items such as insurance, repairs, replacements, reserves, maintenance and other operating expenses, as well as charges to cover any deficits from prior budgets subsequent to expiration of the Guarantee Period and capital improvements and reserves, if any, approved by the Board or required by law. If no budget is approved for the next fiscal year, the existing budget shall continue until a new budget is approved.

ARTICLE 7. ARCHITECTURAL CONTROL AND MAINTENANCE STANDARDS COMMITTEE

7.1 Establishment of Committee and Acceptance by the Association. The Association, by virtue of its execution of this Declaration, acknowledges the necessity of maintaining the physical appearance and image of the Community as a quality residential development.

Accordingly, there is hereby established a committee known as the Architectural Control and Maintenance Standards Committee ("Committee"). The Committee shall be empowered to adopt and promulgate from time to time minimum standards for architectural control and maintenance of the physical appearance of the Community.

7.2 Members of Committee. The Committee shall consist of 3 individuals. Each member of the Committee shall be appointed by Declarant and shall hold office until such time as such member has resigned or has been removed and Declarant has appointed a successor. The membership may include building and landscape architects, contractors, subcontractors and other persons that Declarant may deem sufficiently qualified to render an opinion as to architectural control and minimum standards of maintenance. Members of the Committee need not be Members of the Association. Upon such time as Declarant no longer owns any Lots in the Community, the appointment of the members of the Committee shall cede to the Board.

7.3 Review of Proposed Construction. With respect to the Community Lands, no Home, building, exterior wall, fence or other exterior structure, or entry sign shall be commenced, erected or maintained, nor shall any exterior painted surfaces be repainted, nor shall any exterior addition or change or alteration be made to the exterior of any Home, building, nor shall there be any material modification of the landscaping until the plans and specifications showing the nature, kind, shape, height, colors, dimensions, materials and location of the same shall have been submitted to and approved in writing, as to harmony of external design and color and location in relation to surrounding structures and topography, by the Committee. The Committee shall approve proposals or plans and specifications only if submitted for its approval by the Association and only if it deems that the construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the Community, that the appearance of any structure affected thereby will be in harmony with the surrounding structures, and that the proposed construction complies with Committee guidelines. The Committee may condition its approval of proposals or plans and specifications on such changes therein as it deems appropriate, and may require submission of additional plans and specifications or other information prior to approving or disapproving material submitted. The Committee may also issue rules or guidelines setting forth procedures for the submissions of plans for approval. The Committee may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitations, floor plans, site plans, drainage plans, elevations drawings and descriptions or samples of exterior materials and colors. The Committee may postpone review of any plans submitted for approval until all required materials have been submitted. Notwithstanding any provision of this Article, approval of the Committee shall not be required with respect to constructions performed or caused to be performed by Declarant. In the event construction of the improvements proceeds without submitting plans to the Committee or plans are submitted to the Committee by the Association or if construction proceeds without the approval of the Committee or deviates from the issued approval, the Committee shall have the right but not the duty to take such action as is set forth in Section 7.6 hereof and any other remedies as may be prescribed by law.

7.4 Maintenance and Repair Obligations. In the event that any improvements to the Community Lands fall into disrepair or are not maintained so as to create a dangerous, unsafe, unsightly or unattractive condition, or to otherwise violate this Declaration, the Committee has the right, but not the duty to take such action as is set forth in Section 7.6 hereof and any other remedies prescribed by law. The obligations to maintain shall include but not be limited to exterior paint on any building, landscaping, paving, trash removal, repair of exterior building surfaces and vending machine maintenance.

7.5 Inspections. The Committee shall have the right to inspect from time to time the Community Lands in order to determine whether the maintenance of same meet the minimum standards and any improvements constructed thereon meet the architectural standards and conform to the approvals issued by the Committee.

7.6 Remedies in the Event of Non-Compliance. In addition to the remedies provided in Section 8.6 hereof, if the Committee shall find that any portion of the Community Lands are not being maintained in accordance with the minimum standards, or improvements to the Community Lands are not in compliance with the architectural standards of the Committee, the Committee shall issue a report to Declarant particularizing the deficiencies, and Declarant shall thereafter submit the report to the Board of the Association. Within 30 days of receipt of the report, the Association shall, if pertaining to Common Areas, commence with the repair, maintenance, or restoration specified in the report and diligently pursue

completion of same in an expeditious manner. The cost of all work on the Common Areas shall be the responsibility of the Association and shall be as a Common Expense. If the deficiencies are in a particular Home or Lot, the Association shall notify the Owner of the deficiencies and the Owner shall commence with the repair, maintenance or restoration in accordance with the provisions of Section 8.6 herein. The Association and each Owner does hereby authorize and vest in Declarant the following power should the Association or Owner, whichever is applicable, fail or refuse to commence and complete the maintenance work required by the report of the Committee:

7.6.1 Declarant may let out for bid the work required by the report of the Committee, negotiate and accept bids and authorize contractors or subcontractors to enter upon the Community Lands, and the recreational facilities for the purpose of performing the specified work, in which case Declarant shall be acting as the agent for the Association or the Owner, whichever is applicable, and the entrance upon the Community Lands and recreational facilities of those performing the work shall be a lawful entry and shall not be deemed a trespass. Declarant shall have the right to pay the contractors or subcontractors performing the work and the Declarant is authorized in its own name to record a lien against the property of the Association or the Owner, as may be applicable, in the public records of the County, in the amount of the costs of said work that Declarant has expended, which lien shall be deemed a lien against the Common Areas or the Lot for which the work was performed and which shall remain in effect until such time as it is satisfied of record by the payment to Declarant of the monies expended by it together with interest at the rate of 18% per annum from the date of the expenditure. The recordation of the lien is hereby deemed to constitute constructive notice to third parties of the existence of the lien and all sales, mortgages or other transfers or conveyances subsequent to the recording date shall be subject to the lien rights of Declarant. The Association and each Owner give and grant unto Declarant the power to foreclose its lien in the event that it remains unpaid and agrees that the procedures to be utilized in said foreclosure proceeding shall be those set forth in the statutes of the State of Florida relating to the foreclosure of a mechanic's lien and any and all defenses or rights to contest are hereby waived.

7.6.2 Alternatively, upon receiving the bids of contractors and subcontractors for the work required to be done by the report of the Committee, Declarant may elect not to cause said work to be done, and notwithstanding that, to record the lien prescribed above in the amount of the bids of contractors and subcontractors for the work set forth in the Committee report. Upon payment of the lien to Declarant, Declarant shall then cause the work to be performed and to pay the contractors and subcontractors performing the work from the proceeds satisfying the lien. Upon payment of the contractors and subcontractors, Declarant shall render to the Association or the Owner, whichever is applicable, a report setting forth to whom and what amounts the funds were disbursed. The lien herein prescribed shall have the same priority upon recordation and shall be forecloseable in the same manner as that set forth in Section 7.6.1 hereof, and such lien shall be released upon payment of the indebtedness.

The report of the Committee shall be conclusive as to the nature of the work required to be done and the bids accepted by Declarant shall be conclusive as to price.

Following such time as Declarant no longer owns any Lots in the Community, all rights and powers of Declarant as contained in this Article shall automatically vest in the Association.

7.7 Amendment of Architectural Provisions. No amendment to the provisions of this Section 7 or to any other provision of this Declaration pertaining to architectural standards and approvals shall be deemed effective without the prior written consent of Declarant (for so long as Declarant owns any property in the Community Lands), which approval shall be required to be recorded in the public records of the County in conjunction with the recordings of the amendment instrument.

ARTICLE 8. MAINTENANCE AND REPAIR OBLIGATIONS AND PARTY WALLS

8.1 Common Areas. The Association shall maintain, or provide for the maintenance of all of the Common Areas (including, without limitation, paving, entry features, gates, electronic gates and related equipment, fire sprinkler systems, walls, signage, lighting, landscaping, irrigation and sprinkler systems, pool, cabana, fountains and ponds) and, at its option, may maintain or provide for the maintenance of other property as elsewhere provided for herein.

8.2 Party Walls. Each wall that is built as a part of, and placed on, the dividing line between the Lots shall constitute a party wall, specifically excluding the front perimeter back and front perimeter wall to any Home which is exclusive to such Home. The maintenance and use of all party walls on the Community Lands shall be governed by the terms and provisions of this Section 8.2.

8.2.1 Common Boundary. The center line of a party wall is the common boundary between adjoining Lots.

8.2.2 Cost of Maintenance and Repair. Each Owner shall bear the cost of maintaining and repairing each side of the party wall in its home, except as otherwise provided in this Declaration.

8.2.3 Law Applicable. To the extent not inconsistent with the provisions of this Declaration, general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

8.2.4 Use. An Owner's use of the party walls contained in its Home shall consist of normal interior usage, including but not limited to, paneling, plastering, painting, decoration, construction of tangent walls and shelving, but shall exclude any form of alteration that would cause an aperture, hole, conduit, break or other displacement of the original concrete forming any such party wall.

8.2.5 Destruction or Damage. In the event a party wall is destroyed or damaged by fire or other casualty, any Owner who has used such party wall may restore it, and in the event the cost thereof is in excess of insurance proceeds as to the full replacement value received by the Owner, the Owner of the adjoining Home shall contribute to the cost of restoration of the party wall in proportion to its use thereof; provided, however, that nothing contained herein shall prejudice the right of any Owner to call for a larger contribution from any other Owner under any applicable rule of law regarding liability for negligent or willful acts or omissions. The right of any Owner to contribution from any other Owner under this Article 8 shall be appurtenant to the Lot and shall pass with title to the Lot.

8.2.6 Perpetual Easement. Each Owner shall have a perpetual easement upon the Community Lands surrounding his Lot for the maintenance and repair of the party walls contained in his Lot.

8.2.7 Mortgagee's Protections. So long as there shall be a mortgage or mortgages upon any Lot, the provisions of this Section 8 shall not be modified, abandoned or extinguished as to that Lot without the consent of the Mortgagee. If an Owner shall give, or shall have given, a Mortgage or Mortgages upon his Lot, then the Mortgagee shall have the full right, at its option, to exercise the rights under its Mortgage or as an Owner hereunder and, in addition, the right to add to the outstanding balance of such Mortgage any amounts paid by the Mortgagee for repair hereunder and not reimbursed to it by the Owner.

8.2.8 Access and Reconstruction. In the event repairs or reconstruction shall be necessary, all necessary entries on the adjacent Lot shall not be deemed a trespass so long as the repairs and reconstruction shall be done in a good and workmanlike manner, and consent is hereby given to enter onto the adjacent Lot to effect necessary repairs and reconstruction. In the event of such reconstruction, the party wall or any part thereof shall be rebuilt in the manner at the same location where

it was initially constructed and shall be the same size and of the same or similar materials of like quality as originally constructed, unless otherwise constructed in accordance with the provisions of Article 7 herein.

8.3 Maintenance of Unit Exteriors. In addition to maintenance of the Common Areas, the Association shall provide maintenance, repair and replacement of only the exterior surfaces of each Home. The maintenance, repair or replacement of each Home under the exterior surface thereof shall be the obligation of the Owner. More specifically, the Association shall be responsible for the maintenance, repair and replacement of roofs, gutters, downspouts, exterior building surfaces, including paint, exterior awnings, fences, gates, electronic gates, fountains, trees, shrubs, sprinkler and irrigation systems, fire sprinkler systems, grass, walks and other exterior improvements originally or hereafter placed or constructed upon the Lot by Declarant or the Association. Such exterior maintenance, repair and replacement shall not include glass windows, glass surfaces or doors; screens or screen doors, exterior doors and window fixtures. Notwithstanding that it is understood that the Homes located in any one building share the same roof, the Association shall be responsible for the maintenance, repair and replacement of all roofs located on any Home. The Association is responsible for the maintenance and replacement of all landscaping in the Community Lands. In the event a utility line servicing more than one Lot or the Common Area shall be within the boundaries of a Lot, the Association shall maintain said utility line and have the right of access to the Home for such maintenance purposes.

8.4 Right of Entry in Favor of the Association. The Association, acting through its authorized agents and employees, shall have the right to enter any portion of the Community Lands, including individual Lots, for the purpose of conducting an inspection to determine whether any maintenance, repair or replacement is necessary, or to ascertain an Owner's compliance with the provisions of this Declaration, or in the case of an emergency such as fire, flood or hurricane, or for performance of any maintenance, repair or replacement of any portion of the Community Lands, including individual Lots, so long as such entry is made at reasonable times and upon reasonable notice to the Owner of any such Lot. Each Owner hereby appoints the Association as the Owner's agent for the purposes provided in this Article 8 and agrees that the Association shall not be liable for any alleged property damage, entry or theft caused or occurring on account of any such entry and inspection by the Association.

8.5 Owner's Maintenance Obligation. Each Owner is responsible, at the Owner's expense, for the maintenance, repair and replacement of all portions of, and all other improvements constructed on, his Lot in a manner consistent with the Community Standard, which are not the obligation of the Association to maintain, repair and replace as provided in this Article 8. Accordingly, each Owner shall maintain, at his expense, the interior of the dwelling and all doors (except the exterior surface thereof), windows, glass, screens, electric panels, electric wiring, electric outlets and fixtures, heaters, hot water heaters, refrigerators, dishwashers and other appliances, drains, plumbing fixtures and connections, and all airconditioning equipment. Additionally, each Owner shall maintain that portion of the roof not maintained by the Association in accordance with this Article 8. Each Owner is prohibited from performing any of the Association's maintenance, repair or replacement obligations without first obtaining written consent from the Association and the Committee. No Owner shall plant any additional trees, shrubs, bushes or plants outside any privacy area of its Home without first obtaining the written consent of the Association and the Committee.

8.6 Owner's Liability. In the event any Owner (a) fails to observe and perform the obligations imposed upon Owner by the terms and provisions of this Declaration with regard to the maintenance, repair or replacement of his unit and the improvements thereon; or (b) damages or causes any damage to any building, improvements or grounds, the maintenance, repair, replacement or reconstruction of which is the responsibility of the Association; or (c) makes or causes to be made any unauthorized improvement, alteration or modification to his Home or to the common areas which improvements, alterations or modifications are not approved in the manner set forth in this Declaration; then, in any such event, the Association shall have the right, through its agents and employees, after providing 10 days prior written notice, to enter upon the Lot or other affected part of the Community Lands and to cause the necessary repairs, maintenance or restoration to be performed to the Lot and the Home, or to remove any

unauthorized improvements, alterations or modifications. The Owner of any Lot as to which the Association acts in accordance with this Section 8.6 shall be responsible for all costs and expenses so incurred by the Association and the cost of such repairs, maintenance or restoration shall be assessed against the subject Lot as a Specific Assessment pursuant to Section 6.6 hereof.

ARTICLE 9. INSURANCE

9.1 Common Areas. The Board shall maintain public liability insurance, to the extent reasonably obtainable, covering the Association against liability for any negligent act of commission or omission which occurs on or in the Common Areas. To the extent reasonably obtainable, the Board shall also be required to obtain fire insurance with extended coverage, water damage, vandalism and malicious mischief endorsements, insuring the facilities on the Common Areas, in an amount equal to their full replacement values. The Board may obtain worker's compensation insurance, but shall obtain such insurance if and to the extent required by law. In addition, the Board shall have the right to obtain directors' and officers' liability insurance, fidelity insurance and other insurance it may deem proper to protect the Association, its members and property. All insurance premiums for such coverage as obtained by the Board shall be paid for by the Association and shall constitute Common Expenses.

9.2 Lots and Homes.

9.2.1 Each Owner shall be required to obtain and maintain adequate insurance on such Owner's Lot and Home, which shall insure the property for its full replacement value, with no deductions for depreciation, against loss by fire, flood, if in a flood zone, or other hazards. Such insurance shall be sufficient to cover the full replacement value, or for necessary repair or reconstruction work. Such insurance shall contain a clause which provides 30 days prior written notice to the Board before the policy can be canceled. Each Owner shall be required to supply to the Board, if requested by the Board, evidence of insurance coverage on such Owner's Lot which complies with the provisions of this Section.

In the event of damage or destruction by fire or other casualty to any Home or Lot covered by adequate insurance written in the name of the individual Owner thereof, then such Owner shall, with the concurrence of the Owner's Mortgagee, if any, within 30 days of the receipt of the insurance proceeds, contract for or otherwise substantially start the repair or rebuilding of the damaged or destroyed portions of the structure and/or exterior of the Home in a manner consistent with the Community Standard and in conformance with the original plans and specifications subject to the provisions of Article 7 herein. If such Owner refuses or fails, for any reason, to so repair or rebuild as provided, then the Association, by and through its Board, is hereby irrevocably authorized by such Owner to repair and rebuild such damaged or destroyed portions of the Home in a manner consistent with the Community Standard and in conformance with the original plans and specifications thereof subject to the provisions of Article 8 herein. The Board shall levy a Specific Assessment against the Lot in whatever amount sufficient to adequately pay for such repair, restoration or rebuilding.

9.2.2 Should the Association obtain the insurance coverage on a Home or Lot pursuant to Section 10.2.1 hereof, then the Association may charge and the applicable Owner shall be responsible for, as a Specific Assessment against the Lot, an administration fee of \$100.00.

9.2.3 Notwithstanding anything to the contrary in Section 9.2.1 hereof, the Association and its directors and officers shall not be liable to any person should it fail for any reason whatsoever to obtain insurance coverage on any Home or Lot.

ARTICLE 10. MORTGAGEE PROTECTION

The following provisions are added hereto (and to the extent these added provisions conflict with any other provisions of the Declaration, these added provisions shall control):

10.1.1 Each first mortgagee of a Mortgage encumbering any Lot, at its written request, is entitled to written notification from the Association of any default by the Mortgagor of such Lot in the performance of such Mortgagor's obligations under this Declaration, the Articles or the By-Laws, which default is not cured within 30 days after the Association learns of such default.

10.1.2 Each first mortgagee of a Mortgage encumbering any Lot which obtains title to such Lot pursuant to the remedies provided in such Mortgage or by foreclosure of such Mortgage, shall take title to such Lot free and clear of any claims of unpaid assessments or charges against such Lot which accrued prior to the acquisition of title to such Lot by the Mortgagee.

10.1.3 First Mortgagees shall have the right to examine the books and records of the Association during normal business hours.

ARTICLE 11. USE RESTRICTIONS

11.1 Business Use of Homes and Lots. No garage sale, moving sale, rummage sale or similar activity shall be permitted without the prior written approval of the Board. Each Home shall be used as a single family residence only, except as may be otherwise herein provided. Notwithstanding the foregoing or any other provisions herein, the Declarant shall be permitted to utilize a Home which the Developer owns or leases as model homes, sales or other offices, or management services, or for overnight accommodations by its designees. Home office use of a Home shall only be permitted to the extent permitted by law and to the extent that the office is not staffed by employees, is not used to receive clients and/or customers, and does not generate additional visitors or traffic into the Home or on any part of the Community Lands.

11.2 Prohibition Against Conversion of Garages. Notwithstanding anything contained herein to the contrary, no garages shall be enclosed or converted into a living area and must at all times be used as a garage for car storage purposes.

11.3 Outside Storage of Personal Property. The personal property of any resident of the Community shall be kept inside the resident's Home. No outdoor patio furniture shall be permitted to be maintained on the exterior portions of a Lot.

11.4 Garbage and Trash. Each Owner shall regularly pick up all garbage, trash, refuse or rubbish on the Owner's Lot. Garbage, trash, refuse or rubbish shall be placed at the designated area and time as required by the Association or the Association promulgated rules and regulations. All garbage, trash, refuse or rubbish must be placed in trash containers or bags or as otherwise designated by the Association. All personal containers or garbage facilities shall be stored inside a Home and obscured from view and kept in a clean and sanitary condition. No noxious or offensive odors shall be permitted.

11.5 Parking. The parking facilities shall be used in accordance with the regulations adopted by the Community Association. Owners' automobiles shall be parked in the garage and shall not block the parking court. No vehicle which cannot operate on its own power shall remain in the Community for more than twelve hours, except in the garage of a Home. No repair, except emergency repair (i.e., fixing a flat tire or "jump-starting" a battery, but not involving the changing of fluids or mechanical or body repairs), of vehicles shall be made within the Community, except in the garage of a Home. No commercial vehicle, recreational vehicle, boat or camper, may be kept in the Community except in the garage of a Home. The term "commercial vehicle" shall not be deemed to include recreational vehicles (i.e. Broncos, Blazers, Explorers, etc.) up to 21'5" or non-commercial vehicles such as pick-up trucks, vans or cars if they are used by the Owner on a daily basis for personal transportation or governmental vehicles such as police cars. Limousines shall be considered commercial vehicles and therefore prohibited.

11.6 Pets. No more than 2 dogs or cats shall be kept in a Home, provided same are not kept, bred or maintained for any commercial purpose, do not become a nuisance or annoyance to any neighbor,

are first registered with the Association and no pet may weigh more than fifty (50) pounds. Birds and fish shall be permitted only to the extent same remain at all times within the boundaries of the Home and do not constitute an annoyance or nuisance to any other Owner. No reptile, rodent or other wildlife shall be kept in or on the Residential Property (including Homes). The owner of the pet must pick-up all solid waste of their pet as are deposited on the Common Area and dispose of such wastes appropriately. All dogs and cats must be kept on a leash no more than 6 feet in length held by a person at all times when outside the Home and shall be walked only within areas, if any, designated for such purpose by the Association. The owner of a pet shall indemnify the Association and Declarant and hold them harmless from and against any loss or liability of any kind or character whatsoever arising from such owner's having any pet upon the Residential Property. If any pet owner fails to clean up after the pet, the Association shall perform such service or cause such service to be performed and charge the offending pet owner for the costs associated therewith (in addition to any other remedies provided herein).

Any complaints filed by residents of damage caused by a pet shall be submitted in writing to the Board, which shall determine the amount of the damage and notify the person who owns the pet in writing to make the necessary repair, replacement or removal (as the case may be). If such person fails to properly act within 15 days from the date of such notice, or fails to otherwise reach an agreement in writing with the Board as to the payment for such damage or remedying any other violation within 15 days from the date of such notice, such person shall be required to permanently remove the pet from the Residential Property. Payment for damages pursuant to this section shall not be in lieu of any right of action which the person sustaining the damage shall be entitled to maintain independently.

Any pet complaint filed with the Association, whether or not such complaint involves damage as described in the above paragraph, shall be verified by a member of the Board. Each verified pet complaint shall constitute an infraction for purposes of this section. The Board shall take action with regard to such infractions as follows:

11.6.1 If the complaint is the first infraction, the Board shall notify the pet owner of the infraction in writing and formally request that no such infraction again occur.

11.6.2 If the complaint is the second infraction, the Board shall notify the pet owner and warn such owner that the next infraction will cause a penalty fine to be assessed.

11.6.3 If the complaint is the third infraction, the Board shall notify the pet owner of the continuing violation and refer the matter to a committee of 3 Owners, none of whom shall be presently serving on the Board or be related to a director or the offending pet owner. Such committee shall, within 7 days following issuance of the notice of third infraction to the offending pet owner, determine whether a fine should be levied for such continuing infraction and provide a recommendation thereon to the Board. The amount of any fine shall not exceed \$1,000.00 or the maximum amount allowed under Florida law. If a fine is recommended and approved by such committee, the Board shall issue a written notice to the offending pet owner advising of the levying of the fine. However, such fine shall not become due and owing until such pet owner has received such written notice and has been given the opportunity to request a hearing before the committee of Owners described in this section at a time and date which shall not be more than 30 days after the date of such notice. In the event the offending pet owner elects not to seek such a hearing, the recommendation of a fine made by the committee shall become binding upon the Association and the pet owner. If such a hearing is held, the decision of the committee as to whether to rescind, modify or ratify the proposed fine shall be binding upon the Association and the pet owner. All decisions made by such committee shall be made by majority vote.

11.6.4 If the complaint is the fourth infraction, the Board shall notify the pet owner and demand that the pet be removed from the Residential Property within 30 days from notice. Prior to taking the action contemplated in this section, such pet owner shall have the same opportunity for notice and a hearing as provided in Section 12.7.3 above.

Notwithstanding the foregoing, the Board may order the removal of a pet immediately subsequent to any injury to a person or any injury or damage to property in excess of \$100.00 caused by such pet.

11.7 Energy Devices. A Homeowner shall be entitled to construct, maintain and operate solar collection devices ("Solar Collectors") and/or energy devices based upon renewable resources (collectively, a Solar Collector and any other energy device based upon renewable resource shall be referred to as an "Energy Device"), on such Owner's Lot; provided, however, that the Owner must obtain the written approval of Declarant (until such time as Declarant has conveyed all Lots in the Community to third-parties) or the Committee (following conveyance by Declarant of all Lots in the Community to third-parties), as the case may be, prior to placing, installing or constructing an Energy Device on such Lot. Until such time as Declarant has conveyed all Lots in the Community to third parties, Declarant shall be solely responsible to promulgate rules and regulations as are reasonably necessary to carry out the provisions and intent of this section. Following conveyance by Declarant of all Lots in the Community to third parties, the Committee shall be solely responsible to promulgate rules and regulations as are reasonably necessary to carry out the provisions and intent of this section. All rules and regulations promulgated in accordance with this section shall be collectively referred to as the "Energy Device Rules and Regulations."

An approval for an Energy Device shall be issued by Declarant or the Committee, as the case may be, only in accordance with the Energy Device Rules and Regulations. With regard to Solar Collectors, Declarant or the Committee, as the case may be, may determine the specific location where a Solar Collector may be installed on the roof of a Home within an orientation to the south or within 45° east or west of due south, provided that such determination does not impair the effective operation of the Solar Collector. Whenever and wherever possible, a Solar Collector shall be installed on the rear portion of a roof on a Home so as to minimize the visual impact of the Solar Collector from the roadways adjacent to the subject Lot. Similarly, all Energy Devices other than Solar Collectors shall be installed in a manner so as to minimize the impact on other Lots in the Community. "Minimal visual impact" as used in this section shall mean that the visual impact of an Energy Device on a Lot shall be minimized by reasonable measures as set forth in the Energy Device Rules and Regulations. Considerations of optimal placement of an Energy Device shall yield to aesthetic considerations and the goal of minimal visual impact. Additional criteria for determining whether or not an Energy Device has a "minimal visual impact" also may be prescribed in the Energy Device Rules and Regulations.

11.8 Air Conditioning Units. Only central air conditioning units are permitted, and no window, wall, or portable air conditioning units are permitted.

11.9 Clotheslines and Outside Clothes Drying. No clothesline or clothes pole shall be erected, and no outside clothes drying is permitted, except in accordance with the requirements of governmental authorities for energy conservation purposes, in which event the Association shall have the right to approve the portions of any Lot used for outdoor clothes drying purposes and the types of devices to be employed in this regard, which approval must be in writing and which shall be conditioned upon removal of the clothesline when not in use.

11.10 Nuisances. No nuisance shall be permitted within the Community, and no use or practice which is an unreasonable source of annoyance to any resident within the Community or which shall interfere with the peaceful possession and proper use of the Community by any other person shall be permitted. No unreasonably offensive or unlawful action shall be permitted and all laws, zoning ordinances and regulations of all controlling governmental authorities shall be complied with at all times by the Owners.

11.11 Satellite Dishes and Antennae. Satellite dishes, aerials, antennas and all lines and equipment related thereto located wholly within the physical boundaries of a Home shall be permitted without any requirement for approval from the Board.

Satellite dishes, aerials and antennas (including, but not limited to, ham radio antennas) shall not be permitted on the non-enclosed dwelling portions of a Lot except to the extent required to be permitted by applicable law (including, but not limited to, the federal Telecommunications Act of 1996). The Association shall have the right and authority, in its sole discretion and from time to time, to promulgate rules and regulations concerning the size and location of, and safety restrictions pertaining to, the installation of such television signal reception equipment. Notwithstanding any provision to the contrary, the Association, in its discretion and from time to time, shall have the power and ability to erect or install any satellite dish, aerial or antenna or any similar structure on the Common Areas, provided that such satellite dish, aerial or antenna be solely utilized for the reception of television or internet signals to be utilized by the residents of the Community or for security or maintenance purposes.

Notwithstanding any provision to the contrary, only antennae, aerials and satellite dishes which are designed to receive television or internet signals shall be permitted (i.e., no antennae and satellite dishes which broadcast a signal, such as, but not necessarily limited to, "ham" radio operations, shall be permitted).

11.12 Signs. No signs shall be placed in or upon any Home or Lot that are visible from the exterior of the Home, unless prior approval is received from the Committee.

11.13 Window Treatments. Window treatments shall consist of drapery, blinds, decorative panels, or other window covering, and no newspaper, aluminum foil, sheets or other temporary window treatments are permitted, except for periods not exceeding one week after an Owner or tenant first moves into a Home or when permanent window treatments are being cleaned or repaired.

11.14 Barbecue Grills and Smokers. Barbecue grills and smokers may be located or permitted where designated by the Association upon a Lot and upon such portions of the Common Area as are, from time to time, designated by the Association; provided, however, that use and storage of barbecue grills and smokers shall be subject to such rules and regulations as may be promulgated from time to time by the Board.

11.15 Increases in Insurance Rates. No Owner may take any action which will result in an increase in the rate of any insurance policy or policies covering any portion of the Community.

11.16 Casualties. In the event that a Home or any part thereof is destroyed by casualty or otherwise, or in the event any improvements upon the Common Area are damaged or destroyed by casualty or otherwise, the Owner thereof or the Association, as the case may be, shall promptly clear all debris resulting therefrom and (subject to the duties and obligations of the Association) commence either to rebuild or repair the damaged improvements in accordance with the terms and provisions of this Declaration.

11.17 Reconstruction. Any repair, rebuilding or reconstruction on account of casualty or other damage to any Common Area or any part or parts thereof, shall be substantially in accordance with the plans and specifications for such property and areas as originally constructed or with new plans and specifications approved by the Board or its appointed Committee. Any repair, rebuilding or reconstruction on account of casualty or other damage to any Home or any part or parts thereof shall be substantially in accordance with the plans and specifications for such property and areas as originally constructed or the new plans and specifications approved by the Board or the Committee if appointed, and the Owner of such Home.

11.18 Rules and Regulations. The Association may adopt additional reasonable rules and regulations relating to the use and maintenance of the Community, and rules and regulations relating to the recreational facilities within the Community may be posted at such recreational facilities. Copies of such rules and regulations and amendments shall be furnished by the Association to an Owner upon request.

11.19 Exceptions; Additional Declarant Rights. The use and maintenance restrictions contained in this Section shall not apply to Declarant, or to any portion of the Community while owned by Declarant, and shall not be applied in any manner which would prohibit or restrict the development of any portion of the Community and the construction of any Homes and other improvements thereon, or any activity associated with the sale of any new Homes by Declarant. Specifically, and without limitation, Declarant shall have the right to: (i) construct any buildings or improvements within the Community, and make any additions, alterations, improvements, or changes thereto; (ii) maintain customary and usual sales, general office and construction operations on the Community; (iii) place, erect or construct portable, temporary or accessory buildings or structures upon the Community Lands for sales, construction, storage or other purposes; (iv) temporarily deposit, dump, accumulate materials, trash, refuse and rubbish in connection with the development or construction of the Community; and (v) post, display, inscribe or affix to the exterior of a Home or upon the Community, signs and other materials used in developing, constructing, selling or promoting the Community.

11.20 Leases. No portion of a Home (other than an entire Home) may be rented. The Association shall have the right to require on notice to all Owners that a substantially uniform form of lease be used by all Owner intending to lease after said notice and to provide such form as a Common Expense. Any lease shall provide that the Association shall have the right to terminate the lease upon material default by the tenant in observing any of the provisions of this Declaration, the Articles, the By-Laws, applicable rules and regulations or other applicable provisions of any agreement, document or instrument governing the Community or administered by the Association. Leasing of Homes shall also be subject to the prior written approval of the Association and the Association may reject the leasing of any Home on any ground the Association elects, including any debt to the Association. No lease shall be approved for a term of less than 90 days. Only 2 leases shall be permitted within a 365 day period, which 365 day period shall be deemed to commence on the date of the lease. This Section shall remain in force and effect for a period of 5 years from the date Owners other than Declarant elect a majority of the members of the Board. Thereafter, this Section shall remain in effect until Owners owning not less than 80% percent of the total voting interests in the Association vote to change this Section in whole or in part. As a condition to the approval by the Association of a proposed lease of a Home, the Association has the authority to require that a security deposit from the tenant in an amount not to exceed the equivalent of one month's rent be deposited into an escrow account maintained by the Association in the name of the tenant. The security deposit shall protect against damages to the Common Areas or Association Property. Within 15 days after the tenant vacates the Home the Association shall refund the full security deposit or give written notice to the tenant of any claim made against the security. Disputes under this Section shall be handled in the same fashion as disputes concerning security deposits under Section 83.49, Florida Statutes. The Owner will be jointly and severally liable with the tenant to the Association for any amount in excess of such sum which is required by the Association to effect such repairs or to pay any claim for injury to persons or damage to property caused by the negligence of the tenant. All leases shall also comply with and be subject to the provisions of Section 11.26 hereof.

11.21 Occupancy. Each Home shall be used as a residence only, except as otherwise herein expressly provided. A Home owned by an individual, corporation, partnership, trust or other fiduciary may only be occupied by the following persons, and such persons' families and guests: (i) the individual Owner, (ii) an officer, director, stockholder or employee of such corporation, (iii) a partner or employee of such partnership, (iv) the fiduciary or beneficiary of such fiduciary, or (v) permitted occupants under an approved lease or sublease of the Home (as described below), as the case may be.

Occupants of an approved leased or subleased Home must be the following persons, and such persons' families and guests: (i) an individual lessee or sublessee, (ii) an officer, director, stockholder or employee of a corporate lessee or sublessee, or (iii) a fiduciary or beneficiary of a fiduciary lessee or sublessee.

Under no circumstances may more than one family reside in a Home at one time. A "family" shall be deemed to include spouses, parents, parents-in-law, brothers and sisters, and other persons related by

blood, adoption or marriage. If persons occupying a Home are not all related by blood, adoption or marriage, then occupancy shall be limited to a maximum of two (2) persons and their respective children. The provisions of this Section shall not be applicable to Homes used by Declarant for model apartments, sales offices, other offices or management services.

11.22 Holiday Lighting and Decorations. Holiday lighting and decorations shall be permitted to be placed upon the exterior portions of the Home and upon the Lot commencing on Thanksgiving and shall be removed not later than January 15th of the following year. No holiday lighting, decorations or displays may be erected on a Lot which result in increased traffic in the Community or disturb the peaceful enjoyment of any neighbor and the use of their Lot.

11.23 Noise: Speakers. No noise shall be permitted in the Community or upon a Lot which constitutes a nuisance. No speakers for audio transmission (save and except for stereo speakers installed in connection with intercom systems) shall be permitted on a Lot without the prior written approval of the Committee, and the use of any speakers shall not be permitted in such a manner as to constitute a nuisance.

ARTICLE 12. GENERAL PROVISIONS

12.1 Enforcement. This Declaration, the Articles and the By-Laws may be enforced as follows:

12.1.1 Breach of any of the covenants contained in the Declaration or the By-Laws and the continuation of any such breach may be enjoined, abated or remedied by appropriate legal proceedings by any Owner, Declarant, the Association or the respective successors-in-interest of the foregoing. Any judgment rendered in any action or proceeding pursuant hereto shall include a sum for attorney's and paralegals' fees in an amount as the court may deem reasonable, in favor of the prevailing party, as well as the amount of any delinquent payment, interest thereon, costs of collection and Court costs.

12.1.2 The result of every act or omission whereby any of the covenants contained in this Declaration or the By-Laws are violated in whole or in part is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance either public or private shall be applicable against every such result and may be exercised by any Owner, by the Association or its successors-in-interest.

12.1.3 The remedies herein provided for breach of the covenants contained in this Declaration or in the By-Laws shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

12.1.4 The failure to enforce any of the covenants contained in this Declaration or in the By-Laws shall not constitute a waiver of the right to enforce thereafter.

12.1.5 A breach of the covenants, conditions and restrictions contained in this Declaration or in the By-Laws shall not affect or impair the lien or charge of any Mortgage made in good faith and for value on any Lot; provided, however, that any subsequent Owner of such Lot shall be bound by said covenants, whether such Owner's title was acquired by foreclosure sale or otherwise.

12.2 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

12.3 Term. The covenants and restrictions of this Declaration shall run with and bind the Community Lands covered thereby, and shall inure to the benefit of and be enforceable by the Association, Declarant and the Owners of the Lots subject to this Declaration, their respective legal representatives, successors, heirs and assigns, for a term of 40 years from the date this Declaration is

recorded in the public records of the County, after which time said covenants, conditions, reservation of easements, equitable servitudes and restrictions shall be automatically extended for successive periods of 10 years, unless an instrument, approved by the then Owners of a majority of the Lots, has been recorded in the public records of the County, agreeing to change said covenants and restrictions in whole or in part.

12.4 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the maintenance of community recreational facilities and other commonly used facilities. The article and section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. Unless the context requires a contrary construction, the singular shall include the plural and the plural, the singular; and the masculine, feminine and neuter shall each include the masculine, feminine and neuter.

12.5 Amendments. Declarant shall have the right, at any time until the termination of the Class B membership to amend this Declaration as it, in its sole discretion, deems appropriate. After the Class B membership has been terminated, except as provided to the contrary herein or as otherwise consented to by Declarant, this Declaration may be amended at any time, and from time to time, upon the recordation of an instrument executed by the Association upon vote of: (i) 75% of the Board; and (ii) the Owners who are entitled to cast 75% of all voting interests in the Association who are entitled to vote on the matter as set forth in the Articles and By-Laws. Until the termination of the class B membership, Declarant's written consent to any amendment must first be obtained. No amendment, whether before or after the termination of the class membership, shall affect the rights of Declarant without the prior written consent of Declarant, which may be withheld at its sole discretion, or that alter the subordination provisions of this Declaration, without prior approval of any mortgagee enjoying the benefit of such provisions.

Notwithstanding anything contained herein to the contrary, (a) any amendment to this Declaration which would affect the surface water management system, including any mitigation areas, must have the prior written approval of the Southwest Florida Water Management District in order to be effective, (b) if the prior written approval of any other 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 other entity or agency must also be obtained, and (c) any amendment to this Declaration shall require the prior written consent of the Community Association and Declarant for so long as Declarant owns any property in the Community in order to be effective.

12.6 No Public Right or Dedication. Other than as provided on the Plat, nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Common Areas to the public, or for any use. However, the Association shall have the right to dedicate or transfer all or any part of the Common Areas to any municipality, public agency or authority for such purposes and subject to such conditions as may be agreed upon by the Members. No such dedication or transfer shall be effective unless an instrument in writing executed by not less than Members owning 2/3 of the Members subject to assessment and by Declarant (provided that at said time Declarant still owns any portion of the Community Lands).

12.7 Constructive Notice and Acceptance. Every person who owns, occupies or acquires any right, title, estate or interest in or to any Home or other portion of the real property in the Community does and shall be conclusively deemed to have consented and agreed to every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which said person acquired an interest in such property.

12.8 Additions to Common Areas. Until Declarant shall have completed development, promotion and sale of all Homes to be located in the Community, Declarant (or anyone claiming by, through or under Declarant) shall have the right in its sole discretion to add additional facilities or improvements to the Common Areas. Declarant shall be the sole judge as to the size, contents, designs, style, plans and specifications on all of such additional facilities or improvements and the equipment and

personality contained therein, and Declarant shall also have the right, in its sole discretion, to add additional lands and improvements and shall, upon designation by Declarant, be deemed part of the Common Areas and subject to all of the terms and provisions of this Declaration and, except as otherwise set forth herein, the Members shall be obligated to pay their proportionate share of all taxes, assessments, insurance, utilities, maintenance, management, and other expenses of operation of such additions as if they were a portion of the original Common Areas. In the event Declarant decides to construct such additional improvements, Declarant shall also have the right to record such instruments in the public records of the County, as are necessary for the construction, provided that title is delivered in accordance with the provisions of this Declaration.

12.9 Use of Common Areas. Until Declarant shall have completed development, promotion and sale of all housing units to be located at the Community, Declarant (or anyone claiming by, through or under Declarant) shall have the following rights with regard to the Common Areas (without cost or charge):

12.9.1 the right to use and occupy on a non-exclusive basis any portion of the Common Areas for sales, promotional or administrative purposes;

12.9.2 the right to use, occupy and demonstrate, on a non-exclusive basis, all of the Common Areas for the purpose of promotion and aiding in the sale or rental of the residential units on or to be constructed at the Community.

12.10 Notices. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered 72 hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given in writing by such person to the Association for the purpose of service of such notice, or to the residence of such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association.

12.11 Refund of Taxes, Fees and Other Charges. Unless otherwise provided herein, the Association agrees that any taxes, fees or other charges paid by Declarant 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 Declarant in the event said refund is received by the Association.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, CityPlace Residential L.L.C., a Delaware limited liability company, has caused this instrument to be duly executed and its corporate seal affixed this 25th day of August, 2000.

CITYPLACE RESIDENTIAL L.L.C., a Delaware limited liability company

By: CityPlace Residential, a Florida general partnership, its sole managing member

By: TRG CityPlace, Ltd., a Florida limited partnership, its administrative partner

By: TRG CityPlace, Inc., a Florida corporation, its sole general partner

Maria Gonzalez
(Signature)
Arubel Gonzalez
(Printed Name)
Oscar Rodriguez
(Signature)
OSCAR RODRIGUEZ
(Printed Name)

By: [Signature]
Jose M. Suroi
Senior Vice President

Post Office Address:
2628 Coral Way, Penthouse Suite
Miami, Florida 33145

STATE OF FLORIDA
COUNTY OF DADE

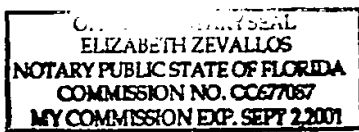
The foregoing instrument was acknowledged before me this 25th day of August, 2000, by JOSE M. SUROI as Senior Vice President of TRG CityPlace, Inc., a Florida corporation, as sole general partner of TRG CityPlace, Ltd., a Florida limited partnership, as administrative partner of CityPlace Residential, a Florida general partnership, as sole managing member of CITYPLACE RESIDENTIAL L.L.C., a Delaware limited liability company, on behalf of the company, who is personally known to me or has produced _____ (state) driver's license or _____ as identification.

My Commission Expires:

(AFFIX NOTARY SEAL)

[Signature]
Notary Public (Signature)
ELIZABETH ZEVALLOS

(Printed Name)



JOINDER AND CONSENT

CITYPLACE TOWNHOUSE POA, INC., a Florida not-for-profit corporation hereby agrees to accept all of the benefits and all of the duties, responsibilities, obligations and burdens imposed upon it by the provisions of the Declaration of Covenants, Restrictions and Easements for CityPlace Townhouses to which this instrument is attached.

IN WITNESS WHEREOF, the above named Association has caused these presents to be executed and its corporate seal affixed this 25th day of August, 2000.

Maria Rodriguez
(Signature)
Maria Gonzalez
(Printed Name)
Jose M. Surdol
(Signature)
OSCAR RODRIGUEZ
(Printed Name)

CITYPLACE TOWNHOUSE POA, INC., a Florida not-for-profit corporation

By: [Signature]
Name: JOSE M. SURDOL
Title: _____

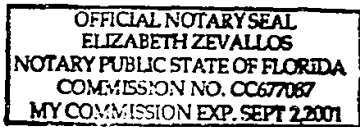
Post Office Address: 2828 Coral Way, PH-1
Miami, Florida 33145

STATE OF FLORIDA
COUNTY OF DADE

The foregoing instrument was acknowledged before me this 25th day of August, 2000, by JOSE M. SURDOL as SENIOR Vice President of CITYPLACE TOWNHOUSE POA, INC., a Florida not-for-profit corporation, on behalf of the corporation, who is personally known to me or has produced _____ (state) driver's license or _____ as identification.

My Commission Expires:
(AFFIX NOTARY SEAL)

Elizabeth Zevallos
Notary Public (Signature)
ELIZABETH ZEVALLOS
(Printed Name)



JOINDER AND CONSENT BY MORTGAGEE

The undersigned, First Union National Bank ("Mortgagee"), the holder of that certain Leasehold Mortgage and Security Agreement executed by CityPlace Residential, L.L.C., a Florida limited liability company ("Developer"), dated November 10, 1999, recorded November 15, 1999 at Official Records Book 11455, Page 71 of the Public Records of Palm Beach County, Florida, being in the original principal sum of Forty-two Million Dollars (\$42,000,000.00) (the "Mortgage") covering all of the property described in the attached Declaration of Covenants, Restrictions and Easements for CityPlace Townhouses (the "Declaration"), does hereby execute this joinder for the sole purpose of consenting to the recording of the Declaration. By its execution hereof, Mortgagee does not make any representations or warranties with respect to any matters set forth in or pertaining to the Declaration or undertake any of the obligations or liabilities contained therein.

IN WITNESS OF THE FOREGOING, the Mortgagee has set Mortgagee's hand and seal the 25th day of September, 2000.

WITNESSES:

FIRST UNION NATIONAL BANK

Nicole Cain
NICOLE CAIN
 [Print Name]

By: [Signature]
 Name: Peter G. Lapham
 Title: Senior Vice President

[Signature]
OFELIA MENENDEZ
 [Print Name]

STATE OF FLORIDA
 COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 25th day of September, 2000, by PETER G. LAPHAM, as SENIOR VICE PRESIDENT FIRST UNION NATIONAL BANK, on behalf of the bank, who is personally known to me/has produced _____ as identification.

(SEAL)

Printed/Typed Name: [Signature]
 Notary Public-State of Florida
 Commission Number:

JOINDER AND CONSENT

West Palm Beach Community Redevelopment Agency, as the owner of the property legally described in the Declaration of Covenants, Restrictions and Easements for CityPlace Townhouses ("Declaration") and having leased such property to CityPlace Residential, L.L.C. pursuant to the Lease as defined in the Declaration, hereby joins in and consents, as the owner of such lands, to the Declaration.

Dated this 28 day of August, 2000.

Barbara Stewart
(Signature)

BARBARA STEWART
(Printed Name)

Esteban M. Sarmiento
(Signature)

ESTEBAN M. SARMIENTO
(Printed Name)

WEST PALM BEACH COMMUNITY
REDEVELOPMENT AGENCY

By: Joel T. Daves
Mayor Joel T. Daves
Chair

Post Office Address:
P. O. BOX 3366
WEST PALM BEACH, FL 33401


STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 28 day of AUGUST 2000, by Mayor Joel T. Daves, as Chair, and on behalf of West Palm Beach Community Redevelopment Agency, who is personally known to me or has produced _____ (state) driver's license or _____ as identification.

My Commission Expires:

(AFFIX NOTARY SEAL)

Linda L. Schaefer
Notary Public (Signature)
LINDA L. SCHAEFER
(Printed Name)

 Linda L. Schaefer
MY COMMISSION # CC833169 EXPIRES
May 5, 2003
BOARDED THROUGH TROY FARM INSURANCE INC.

CITY ATTORNEY'S OFFICE

Approved as to form
and legal sufficiency

By: [Signature]

Date: 8/28/00

EXHIBIT A

Legal Description of the Community Lands

THE LANDS SUBJECT TO THE CITYPLACE RESIDENTIAL PLAT NO. 1 AS RECORDED IN PLAT BOOK 87, PAGES 137 AND 138, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS AND EXCEPT LOTS 42 AND 43 AND PARCELS C AND E OF SAID PLATTED LANDS.

NOT A CERTIFIED COPY

EXHIBIT A-1

COMMON AREAS

As of date of recording of the Declaration of Covenants, Restrictions and Easements to which this Exhibit is attached Parcels A, B, D, F, G, H, I, J, K, L and M of the CityPlace Residential Plat No. 1 recorded at Plat Book 87, Pages 137 and 138 of the Public Records of Palm Beach County, Florida, are Common Areas. Common Areas may be added in the future by an amendment to this Exhibit made in accordance with the applicable requirements of Article 12 of the Declaration of Covenants, Restrictions and Easements.

**NOT
CERTIFIED COPY**

EXHIBIT B

Articles of Incorporation of CityPlace Townhouse POA, Inc.

NOT A CERTIFIED COPY

ORB 12097 Pg 1398



FLORIDA DEPARTMENT OF STATE
Katherine Harris
Secretary of State

August 23, 2000

CITYPLACE TOWNHOUSE POA, INC.
2828 CORAL WAY, PENTHOUSE SUITE
MIAMI, FL 33145

Re: Document Number N00000000961

The Amended and Restated Articles of Incorporation for CITYPLACE TOWNHOUSE POA, INC., a Florida corporation, were filed on August 23, 2000.

The certification you requested is enclosed. To be official, the certificate for a certified copy must be attached to the original document that was electronically submitted under FAX audit number E00000042793.

Should you have any questions concerning this matter, please telephone (850) 487-6050, the Amendment Filing Section.

Darlene Connell
Corporate Specialist
Division of Corporations

Letter Number: 700A00045262

State of Florida

Department of State

I certify the attached is a true and correct copy of the Amended and Restated Articles of Incorporation, filed on August 23, 2000, for CITYPLACE TOWNHOUSE POA, INC., a Florida corporation, as shown by the records of this office.

I further certify the document was electronically received under FAX audit number H00000042793. This certificate is issued in accordance with section 15.16, Florida Statutes, and authenticated by the code noted below.

The document number of this corporation is N00000000961.

Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capital, this the
Twenty-third day of August, 2000

Authentication Code: 700A00045262-082300-N00000000961-1/1



CR2E022 (1-89)

Katherine Harris

Katherine Harris
Secretary of State

ORB 12097 Pg 1400

Florida Department of State
Division of Corporations
Public Access System
Katherine Harris, Secretary of State

Electronic Filing Cover Sheet

Note: Please print this page and use it as a cover sheet. Type the fax audit number (shown below) on the top and bottom of all pages of the document.

((H00000042793 0)))

Note: DO NOT hit the REFRESH/RELOAD button on your browser from this page. Doing so will generate another cover sheet.

To: Division of Corporations
Fax Number : (850)922-4000

From: Account Name : CARLTON FIELDS
Account Number : 076077000355
Phone : (813)223-7000
Fax Number : (813)229-4133

BASIC AMENDMENT
CITYPLACE TOWNHOUSE POA, INC.

Certificate of Status	0
Certified Copy	1
Page Count	07
Estimated Charge	\$43.75

Electronic Filing Menu

Corporate Filing

Public Access Help

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ORB 12097 Pg 1401

**AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
CITYPLACE TOWNHOUSE POA, INC.**

The undersigned, for the purpose of forming a corporation not for profit pursuant to the laws of the State of Florida, does hereby adopt the following articles of incorporation.

ARTICLE I: NAME

The name of the corporation is CityPlace Townhouse POA, Inc. For convenience, the corporation shall be referred to in this instrument as "Association," these Articles of Incorporation as the "Articles," and the By-Laws of the Association as the "By-Laws."

ARTICLE II: PRINCIPAL OFFICE AND MAILING ADDRESS

The principal office and mailing address of the Association shall be located at 2828 Coral Way, Penthouse Suite, Miami, Florida 33145.

ARTICLE III: REGISTERED OFFICE AND REGISTERED AGENT

The initial registered office of the Association shall be at 2828 Coral Way, Penthouse Suite, Miami, Florida 33145, with the privilege of having its office and branch offices at other places within or without the State of Florida. The initial registered agent at that address shall be Roberto S. Rocha.

ARTICLE IV: PURPOSES AND POWERS OF THE ASSOCIATION

This Association does not contemplate pecuniary gain or profit to the members thereof, will make no distribution of income to its members, directors, or officers, and the specific purposes for which it is formed are to provide for the ownership, operation, maintenance, and preservation of the common driveways, parking areas (if applicable), green areas, the surface water management system for the CityPlace Townhouses, mitigation areas, lakes, retention areas, water management areas, ditches, culverts, structures and related appurtenances and the like (if any), and other common areas in the area to be known as the CityPlace Townhouses (the "Community") located in the City of West Palm Beach, Palm Beach County, Florida, more particularly described in the Declaration referred to below hereinafter referred to as the "Common Areas," and to promote the health, safety, and welfare of the Owners, which constitute the membership of the Association's members and to:

4.1 Exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Covenants, Restrictions and Easements for CityPlace Townhouses (the "Declaration"), as amended from time to time, and recorded or to be recorded in the public records of Palm Beach County, Florida; said Declaration incorporated herein as if set forth at length; any initial capitalized term not otherwise defined herein shall have the meaning ascribed to it in the Declaration;

4.2 Fix, levy, collect, and enforce payment by any lawful means, all Assessments and Common Expenses pursuant to the terms of the Declaration, and to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes, or governmental charges levied or imposed against the property of the Association;

4.3 Acquire (by gift, purchase, or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use, or otherwise dispose of real or personal property in connection with the affairs of the Association;

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Sandra G. Porter, Esq.

Carlton Fields, P.O. Box 3239, Tampa, FL 33601

Ph: 813-223-7000; Fax: 813-229-4133; Fla. Bar No.: 889393

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ORB 12097 Pg 1402

4.4 Borrow money, and with the assent of 2/3 of each class of Members, mortgage, pledge deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

4.5 Dedicate, sell, or transfer all or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument has been signed by 2/3 of the Members, agreeing to such dedication, sale or transfer;

4.6 Participate in mergers and consolidations with other non-profit corporations organized for the same purposes or annex additional residential property and common area, provided that any such merger or consolidation shall have the assent of 2/3 of each class of Members;

4.7 Purchase, lease, hold, sell, mortgage or otherwise acquire or dispose of interests in, real or personal property, except to the extent restricted hereby; to contract for the management and maintenance of the Common Areas and to authorize a management agent to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules and maintenance, repair, and replacement of the Common Areas with funds as shall be made available by the Association for such purposes. The Association shall, however, retain at all times the powers and duties granted by the Declaration, including, but not limited to, the making of Assessments, promulgation of rules and the execution of contracts on behalf of the Association;

4.8 Collect on behalf of the Association all costs or charges which may be due to the Association in addition to the Assessments or Common Expenses for the use of any Common Areas which may be granted therein.

4.9 Sue and be sued.

4.10 Have and to exercise any and all powers, rights, and privileges which a corporation organized under the corporation not for profit law of the State of Florida by law may now or hereafter have to exercise.

ARTICLE V: MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

5.1 Membership. Every person or entity who is an Owner of a Lot (as defined in the Declaration) and the Declarant shall be a Member of the Association. Notwithstanding the foregoing, any such person or entity that merely holds record ownership as security for the performance of an obligation shall not be a Member of the Association. Membership in the Association shall not be assignable, except to the successor-in-interest of the Member.

5.2 Voting Rights. Voting shall be in accordance with Section 4.2 of the Declaration.

5.3 Multiple Ownership. When more than one person or entity shall at any time be the Owner of a Lot subject to a membership interest, the vote attributed to such Lot shall be exercised as such Owners mutually determine and such Members cannot split or divide their Lot's vote on any motion, resolution, ballot or otherwise. In the event that such Owners are unable to agree among themselves as to how their vote shall be cast, they shall lose their right to vote on the matter in question. If any one of such Owners casts a vote, it will thereafter be conclusively presumed for all purposes that such Owner was acting with the authority and consent of all other Owners of the same Lot. In the event more than one vote is cast for a particular Lot, none of said votes shall be counted, but rather, all such votes shall be deemed void.

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5.4 Membership. Membership shall be appurtenant to and inseparable from ownership of a Lot. Transfer of Lot ownership, either voluntarily or by operation of law, shall terminate membership in the Association, and said membership shall thereupon be vested in the transferee.

ARTICLE VI: BOARD OF DIRECTORS

6.1 The names and addresses of the members of the Board of Directors who shall hold office until the annual meeting of the members and until their successors are elected or appointed and have qualified, are as follows:

Roberto S. Rocha	2828 Coral Way Penthouse Suite Miami, Florida 33145
Joe M. Suriol	2828 Coral Way Penthouse Suite Miami, Florida 33145
Fernando Arimon	2828 Coral Way Penthouse Suite Miami, Florida 33145
Angel Hernandez	2828 Coral Way Penthouse Suite Miami, Florida 33145

6.2 The affairs of the Association shall be managed by a Board of Directors composed of not less than 3 nor more than 5 persons. The first Board of Directors shall have 4 members, and in the future the number will be determined from time to time in accordance with the provisions of the By-Laws of the corporation.

At the first annual meeting following the cessation of the Class B membership, the Members shall elect 2 directors for a term of one year, 2 directors for a term of 2 years, and one director for a term of 3 years. The Candidate receiving the largest number of votes shall serve as director for 3 years; the two candidates receiving the second and third largest vote shall serve as directors for 2 years; and the 2 candidates receiving the fourth and fifth largest vote shall serve as directors for one year. At each annual meeting thereafter, the members shall elect the appropriate number of directors for a term of 3 years.

ARTICLE VII: DURATION

The Association shall have perpetual existence; provided, however, that in the event the Association is dissolved, any property consisting of a surface water management system shall be conveyed to an appropriate agency of local government, and that if not accepted, then any such surface water management system shall be dedicated to a similar not-for-profit corporation.

ARTICLE VIII: AMENDMENTS

8.1 Proposal. An amendment or amendments to these Articles may be proposed by the Board of Directors acting upon a vote of the majority of either the members or the Directors, whether at a meeting as members or Directors or by instrument in writing signed by either of them. Upon any amendment or amendments to these Articles being proposed by the Board of Directors or members, such proposed amendment or amendments shall be transmitted to the President of the Association, or the acting chief executive officer in the absence of the President, who shall thereupon call a special meeting of the

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members of the Association not later than 60 days from the receipt by him of the proposed amendment or amendments.

8.2 Notice. It shall be the duty of the Secretary to give each member written notice of such meeting, stating the proposed amendment or amendments in reasonable detailed form, which notice shall be mailed or presented personally to each member not less than 14 days nor more than 30 days before the date set for such meeting. If mailed, such notice shall be deemed to be properly given when deposited in the United States mail, addressed to the member at his Post Office address as it appears on the records of the Association, with postage thereupon prepaid. Any member may, by written waiver of notice signed by such member, waive such notice, and such waiver when filed in the records of the Association, whether before, during or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such member.

8.3 Resolution. At the meeting at which the amendment is to be proposed and considered, a resolution for the adoption of the proposed amendment may be made by any Director or member of the Association, present in person or by proxy.

8.4 Approval. Except as elsewhere provided, the approval of a resolution for the adoption of a proposed amendment to these Articles shall require the affirmative vote of not less than 75% of the total votes that may be cast by the membership of the Association. Voting Members of the Association not present in person or by proxy at the meeting at which the amendment is to be considered may express their approval (or disapproval) of the amendment in writing, provided that such approval is delivered to the Secretary of the Association prior to the commencement of the meeting.

8.5 Limitation. No amendment shall make any changes in the qualification for membership nor in the voting rights or property rights of members, nor any changes in Sections 4.3, 4.4, and 4.5 of Article IV, entitled "Purposes and Powers of the Association," without approval in writing by all members. No amendment shall make any changes which would in any way affect any of the rights, privileges, powers or options herein provided in favor of or reserved to the Declarant, or an affiliate of Declarant, unless the Declarant shall join in the execution of the Amendment.

8.6 Compliance With Governmental Regulations. Notwithstanding the above, an amendment may be made upon the approval of all of the members of the Board of Directors without the consent of the Members of the Association to bring the Articles of Incorporation in compliance with any governmental regulations including, without limitation, those of the Department of Housing and Urban Development, Federal Housing Administration and Federal National Mortgage Association.

8.7 Recording. Such amendment or amendments of these Articles shall be transcribed and certified in such form as may be necessary to file the same in the office of the Secretary of State of the State of Florida. A certified copy of each amendment of these Articles shall be recorded in the Public Records of Palm Beach County, Florida, within 30 days from the date on which the same is filed and returned from the office of the Secretary of State.

8.8 Approval by Governmental Entities. Notwithstanding anything contained herein to the contrary, (a) any amendment to these Articles which would affect the surface water management system, including any mitigation areas, must have the prior written approval of the Southwest Florida Water Management District in order to be effective, and (b) if the prior written approval of any other 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 other entity or agency must also be obtained.

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ARTICLE IX: INDEMNIFICATION

9.1 Indemnity. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or contemplated action suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a Director, employee, officer or agent of the Association, against expenses (including attorneys' fees and appellate attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceedings, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, has no reasonable cause to believe his conduct was unlawful, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for gross negligence or misfeasance or malfeasance in the performance of his duty to the Association, unless and only to the extent that the court in which such action or suit was brought shall determine upon application that despite the adjudication of liability, but in view of all of the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

9.2 Expenses. To the extent that a Director, officer, employee or agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 11.1 above, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually and reasonably incurred by him in connection therewith.

9.3 Approval. Any indemnification under Section 11.1 above (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the Directors, officer, employee or agent is proper under the circumstances because he has met the applicable standard of conduct set forth in Section 11.1 above. Such determination shall be made (a) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (b) if such quorum is not obtainable, or, even if obtainable, if a quorum of disinterested Directors so directs, by independent legal counsel in a written opinion, or by a majority of the members.

9.4 Advances. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors in any specific case upon receipt of an undertaking by or on behalf of the affected Director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Article XI.

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

9.6 Insurance. The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a Director, officer, employee or agent of the Association, or is or was serving, at the request of the Association, as a Director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article.

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ARTICLE X: BY-LAWS

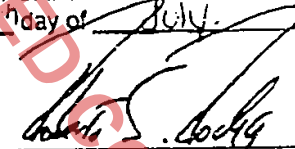
The first By-Laws of the Association will be adopted by the Directors named herein, and may be altered, amended, or rescinded in the manner provided by said By-Laws. Any By-Laws adopted by the Board of Directors shall be consistent with these Articles.

ARTICLE XI: TRANSACTION IN WHICH DIRECTORS OR OFFICERS ARE INTERESTED

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

11.2 Interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorized the contract or transaction.

IN WITNESS WHEREOF, Cityplace Townhouse POA, Inc. has caused these Amended and Restated Articles of Incorporation to be executed on this 24th day of July, 2000.



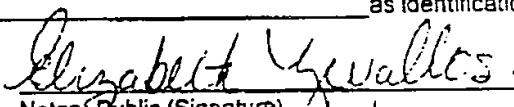
Roberto S. Rocha, President

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this 24th day of July, 2000, by Roberto S. Rocha, in his capacity as President of CityPlace Townhouse POA, Inc., a Florida not for profit corporation, on behalf of the corporation, who is personally known to me or has produced _____ (state) driver's license or _____ as identification.

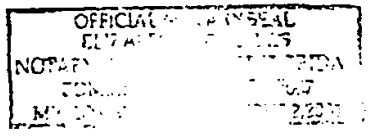
My Commission Expires: Sept. 2, 2001

(AFFIX NOTARY SEAL)



Notary Public (Signature)
ELIZABETH YEVALLIOS

(Printed Name)



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**CERTIFICATE ACCOMPANYING
AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
CITYPLACE TOWNHOUSE POA, INC.**

Pursuant to the provisions of Section 617.1007(3) of the Florida Not For Profit Corporation Act, it is hereby certified that:

FIRST: The name of the corporation is CityPlace Townhouse POA, Inc. (the "Corporation").

SECOND: The Amended and Restated Articles of Incorporation that this certificate accompanies was adopted by the board of directors and does not contain amendments to the Corporation's articles of incorporation that required member approval.

THIRD: The Amended and Restated Articles of Incorporation attached hereto shall be the articles of incorporation of the Corporation.

August 21, 2000
Date

CITYPLACE TOWNHOUSE POA, INC.
a Florida corporation

By: Roberto S. Rocha
Name: Roberto S. Rocha
Title: President

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EXHIBIT C

By-Laws of CityPlace Townhouse POA, Inc.

NOT A CERTIFIED COPY

**BY-LAWS OF
CITYPLACE TOWNHOUSE POA, INC.**

ARTICLE I: NAME AND LOCATION

The name of the corporation is CITYPLACE TOWNHOUSE POA, INC., a Florida corporation not-for-profit, hereinafter referred to as the "Association." The principal office of the corporation shall be located at 2828 Coral Way, Penthouse Suite, Miami, Florida 33145, but meetings of members and directors may be held at such places within the State of Florida, County of Dade or County of Palm Beach, as may be designated by the Board.

ARTICLE II: DEFINITIONS

Defined terms in the Declaration referred to in the Articles of Incorporation of this Association (hereinafter referred to as the "Declaration") are herein used as therein defined.

ARTICLE III: MEETING OF MEMBERS

3.1 Annual Meetings. The first annual meetings of the members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held in the same month of each year thereafter on a day and time to be determined by the Board. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following that which is not a legal holiday. The first meeting of the Board of the Association shall be held immediately succeeding the annual meeting of members.

3.2 Special Meetings. Special meetings of the members may be called at any time by the Board, or upon written request of the members who are entitled to vote 1/4 of all of the votes of the membership, as defined in the Articles of Incorporation. Business conducted at a special meeting is limited to the purposes described in the notice of the meeting.

3.3 Notice of Meeting. Written notice of each meeting of the members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least 10 days before such meeting to each member entitled to vote thereat, addressed to the members' address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

3.4 Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast 30% of the votes of the total membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws.

3.5 Adjournment. Adjournment of an annual or special meeting to a different date, time, or place must be announced at that meeting before an adjournment is taken, or notice must be given of the new date, time or place as provided in Article VII. Any business that might have been transacted on the original date of the meeting may be transacted at the adjourned meeting.

3.6 Proxies. At all meetings of members, the members have the right to vote in person or by proxy. To be valid, a proxy must be dated, must state the date, time and place of the meeting for which it was given, and must be signed by the authorized person who executed the proxy. A proxy is effective only for the specific meeting for which it was originally given, as the meeting may lawfully be adjourned and reconvened from time to time, and automatically expires 90 days after the date of the meeting for which it was originally given. A proxy is revocable at any time at the pleasure of the person who executes it.

3.7 Action Without a Meeting.

(a) Action that can be taken at an annual or special meeting of members may be taken without a meeting, without prior notice, and without a vote if the action is taken by the members entitled to vote on such action and having not less than the minimum number of votes necessary to authorize such action at a meeting at which all members entitled to vote on such action were present and voted. In order to be effective, the action must be evidenced by one or more written consents describing the action taken, dated and signed by approving members having the requisite number of votes and entitled to vote on such action, and delivered to the Association by delivery to its principal place of business, the corporate secretary, or another officer or agent of the Association having custody of the book in which proceedings of meetings of members are recorded. Written consent shall not be effective to take the Association action referred to in the consent unless the consent is signed by members having the requisite number of votes necessary to authorize the action within 60 days of the date of the earliest dated consent and is delivered in the manner required by this section.

(b) Any written consent may be revoked prior to the date that the Association receives the required number of consents to authorize the proposed action. A revocation is not effective unless in writing and until received by the Association at its principal office in this state or its principal place of business, or received by the corporate secretary or other officer or agent of the Association having custody of the book in which proceedings of meetings of members are recorded.

(c) Within 10 days after obtaining such authorization by written consent, notice must be given to those members who are entitled to vote on the action but who have not consented in writing. The notice must fairly summarize the material features of the authorized action.

(d) A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

(e) If the action to which the members consent is such as would have required the filing of a certificate under any other section of this act if such action had been voted on by members at a meeting thereof, the certificate filed under such other section must state that written consent has been given in accordance with the provisions of this section.

(f) Whenever action is taken pursuant to this section, the written consent of the members consenting to such action or the written reports of inspectors appointed to tabulate such consents must be filed with the minutes of proceedings of members.

ARTICLE IV: VOTING RIGHTS

The Association shall have two classes of voting membership:

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

Class B. The Class B voting member shall be the Declarant (as defined in the Declaration). The Class B Voting Member shall be entitled to 3 votes for each vote to which the Class A Members are entitled to cast from time to time, provided that the Class B Membership shall cease and terminate in accordance with the provisions of Section 4.2.2 of the Declaration.

ARTICLE V: BOARD; SELECTION; TERM OF OFFICE

5.1 Number. The affairs of the Association shall be managed by the Board, which shall be composed of not less than 3 nor more than 5 persons. The first Board shall have 4 members, who need not be members of the Association.

5.2 Term of Office. At the first annual meeting following the cessation of the Class B membership, the Members shall elect 2 directors for a term of 1 year, 2 directors for a term of 2 years, and one director for a term of 3 years. The candidate receiving the largest number of votes shall serve as director for 3 years; the two candidates receiving the second and third largest vote shall serve as directors for 2 years; and the two candidates receiving the fourth and fifth largest vote shall serve as directors for one year. At each annual meeting thereafter, the members shall elect the appropriate number of directors for a term of 3 years.

5.3 Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

5.4 Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

5.5 Action Taken Without A Meeting. The directors shall have the right to take any action in the absence of a meeting that they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE VI: NOMINATION AND ELECTION OF DIRECTORS

6.1 Nomination. All members of the Association shall be eligible to serve on the Board, and a member may nominate himself as a candidate for the Board at the meeting where the election is to be held. Nomination for election to the Board shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board, and two or more members of the Association. The Nominating Committee shall be appointed by the Board prior to each annual meeting of the members, to serve from the close of such annual meeting until the date of the next annual meeting, and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board as it shall, in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members.

6.2 Election. Election to the Board shall be by secret written ballot. At such election the members or their proxies may cast, with respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

6.3 Proviso. Notwithstanding the above, during the time that Declarant is in control of the Association, Declarant has the right to appoint the members of the Board, who may or may not be Members of the Association.

ARTICLE VII: MEETINGS OF DIRECTORS

7.1 Meetings of the Board. A meeting of the Board occurs when a quorum of the Board gathers to conduct Association business. All meetings of the Board must be open to all members except for meetings between the Board and its attorney with respect to proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney-client privilege. Notices of all Board meetings must be posted in a conspicuous place in the community at least 48 hours in advance of a meeting, except in an emergency. In the alternative, if notice is not posted in a conspicuous place in the community, notice of each Board meeting must be mailed or delivered to each member at least 7 days before the meeting, except in an emergency. An assessment may not be levied at a Board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of the assessments. Directors may not vote by proxy or by secret ballot at Board meetings, except that

secret ballots may be used in the election of officers. This section also applies to the meetings of any committee or other similar body, including any body vested with the power to approve or disapprove architectural decisions with respect to a specific parcel of residential property in the community owned by a member of the Association.

7.2 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 duly held meetings at which a quorum is present shall be regarded as the act of the Board.

ARTICLE VIII: POWERS AND DUTIES OF THE BOARD

8.1 Powers. The Board shall have power to:

(a) Adopt and publish rules and regulations governing the use of the Common Areas, and the personal conduct of the members and their guests, thereon and to establish penalties for the infraction thereof;

(b) Suspend the voting rights of, and the right to use of, the Common Areas of a Member during any period in which such member shall be in default in the payment of any Assessment levied by the Association. Such rights may also be suspended, after notice and hearing, for a period not to exceed 60 days for infraction of published rules and regulations;

(c) Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by any other provisions of these By-Laws, the Articles or the Declaration;

(d) Fix, levy, collect and enforce payment by any lawful means, all Assessments and Common Expenses pursuant to the terms of the Declaration;

(e) Declare the office of a member of the Board to be vacant in the event such member shall be absent from 3 consecutive regular meetings of the Board;

(f) Employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties;

(g) Accept such other functions or duties with respect to, including architectural control, in addition to maintenance responsibilities, as are determined from time to time to be proper by the majority of the Board; and

(h) Delegate to, and contract with, a mortgage company or financial institution, responsibility for collection of Assessments.

8.2 Duties. It shall be the duty of the Board to:

(a) Cause to be kept a complete record of all of its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of members, or at any special meeting when such statement is requested in writing by $\frac{1}{4}$ of the Class A members who are entitled to vote;

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

(c) As provided in the Declaration to:

(i) fix the amount of the General Assessment against each Lot at least 30 days in advance of each General Assessment period;

(ii) send written notice of each General Assessment to every owner subject thereto at least 30 days in advance of each General Assessment period; and

(iii) foreclose the lien against any property for which Assessments are not paid within 30 days after the due date or to bring an action at law against the owner personally obligated to pay the same;

(d) Issue or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. The Board may make a reasonable charge for the issuance of these certificates. If a certificate states an assessment has been paid, such certificates shall be conclusive evidence of such payment;

(e) Procure and maintain adequate liability and hazard insurance on property owned or controlled by the Association, or for which, in the opinion of a majority of the directors, it may be liable and should provide coverage;

(f) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and

(g) Cause the Common Areas and other property of the Association as set forth in the Declaration to be maintained.

Notwithstanding any provision hereinabove to the contrary, any power that the Board is permitted or authorized to take pursuant to the provisions of the Declaration, the Articles or these By-Laws shall not be exercised without a vote of the Board as required by the Declaration, the Articles or these By-Laws, and if no voting requirements are specifically described, the stated power can be exercised upon a vote of a majority of the members of the Board.

ARTICLE IX: OFFICERS AND THEIR DUTIES

9.1 Enumeration of Officers. The officers of this Association shall be a President and Vice President, who shall at all times be members of the Board; a Secretary and a Treasurer, and such other officers as the Board may from time to time by resolution create.

9.2 Election of Officers. The election of officers shall take place at the first meeting of the Board which shall follow each annual meeting of the members.

9.3 Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one year unless he shall sooner resign, or shall be removed, or otherwise be disqualified to serve.

9.4 Special Appointment. The Board may elect such other officers as the affairs of the 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.

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

9.6 Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

9.7 Multiple Offices. The same person may hold the offices of Secretary and Treasurer. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 9.4 of this Article.

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

(a) President. The President shall preside at all meetings of the Board; see that resolutions and orders of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

(b) Vice President. The Vice President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

(c) Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of members; keep appropriate current records showing the members of the Association together with their addresses; and shall perform such other duties as required by the Board. If appointed, an Assistant Secretary shall perform the duties of the Secretary when the Secretary is absent.

(d) Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board; shall sign all checks and promissory notes of the Association; keep proper books of account; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members. If appointed, an Assistant Treasurer shall perform the duties of the Treasurer when the Treasurer is absent.

ARTICLE X: COMMITTEES

The Association shall appoint a Nominating Committee. In addition, the Board shall appoint other committees as deemed appropriate in carrying out its purposes, including, but not limited to, the Committee as described in Article 7 of the Declaration.

ARTICLE XI: OFFICIAL RECORDS OF THE ASSOCIATION

11.1 The Association shall maintain each of the following items, when applicable, which constitute the official records of the Association:

(a) Copies of any plans, specifications, permits, and warranties related to improvements constructed on the Common Areas or other property that the Association is obligated to maintain, repair or replace;

(b) A copy of the By-Laws and each amendment thereto;

(c) A copy of the Articles and each amendment thereto;

(d) A copy of the Declaration and each amendment thereto;

(e) A copy of the current rules of the Association;

(f) The minutes of all meetings of the Board and of the Members, which minutes must be retained for at least 7 years;

(g) A current roster of all Members and their mailing addresses and parcel identifications.

(h) All of the Association's insurance policies or a copy thereof, which policies must be retained for at least 7 years;

(i) A current copy of all contracts to which the Association is a party, including, without limitation, any management agreement, lease, or other contract under which the Association has any obligation or responsibility. Bids received by the Association for work to be performed must also be considered official records and must be kept for a period of one year;.

(j) The financial and accounting records of the Association, kept according to good accounting practices. All financial and accounting records must be maintained for a period of at least 7 years. The financial and accounting records must include:

- (i) Accurate, itemized, and detailed records of all receipts and expenditures;
- (ii) A current account and a periodic statement of the account for each member, designating the name and current address of each member who is obligated to pay assessments, the due date and amount of each assessment or other charge against the member, the date and amount of each payment on the account, and the balance due;
- (iii) All tax returns, financial statements, and financial reports of the Association; and
- (iv) Any other records that identify, measure, record, or communicate financial information.

11.2 Inspection and Copying of Records. The official records shall be maintained within the State and must be open to inspection and available for photocopying by members or their authorized agents at reasonable times and places within 10 business days after receipt of a written request for access.

ARTICLE XII: ASSESSMENTS

As more fully described in the Declaration, each member is obligated to pay to the Association Assessments which are secured by a continuing lien upon the Lot against which the Assessment is made, and which are the personal obligation of the Owner of such Lot.

ARTICLE XIII: CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: CITYPLACE TOWNHOUSE POA, INC., a Florida corporation not-for-profit 2000.

ARTICLE XIV: AMENDMENTS

14.1 These By-Laws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present, in person or by proxy.

14.2 Notwithstanding the above, as long as Declarant is in control of the Association, these By-Laws may be amended by Declarant without the consent of the Members.

14.3 In the case of any conflict between the Articles and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

ARTICLE XV: MINUTES

Minutes of all meetings of the membership and of the Board must be maintained in written form or in another form that can be converted into written form within a reasonable time. A vote or abstention from voting on each matter voted upon for each director present at a Board meeting must be recorded in the minutes.

ARTICLE XVI: BUDGETS

The Association shall prepare an annual budget. The budget must reflect the estimated revenues and expenses for that year and the estimated surplus or deficit as of the end of the current year. The Association shall provide each member with a copy of the annual budget or a written notice that a copy of the budget is available upon request at no charge to the members. The copy must be provided to the member within the time limit set forth in Article XI hereof.

ARTICLE XVII: FINANCIAL REPORTING

The Association shall prepare an annual financial report within 60 days after the close of the fiscal year. The Association shall, within the time limits set forth in Article XI, provide each member with a copy of the annual financial report or a written notice that a copy of the financial report is available upon request at no charge to the member. The financial report must consist of either:

- 17.1 Financial statements presented in conformity with generally accepted accounting principles; or
- 17.2 A financial report of actual receipts and expenditures, cash basis, which report must show:
 - (a) The amount of receipts and expenditures by classification; and
 - (b) The beginning and ending cash balances of the Association.

ARTICLE XVIII: MISCELLANEOUS

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