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File# Portofino Shores SB6

DECLARATION

OF

COVENANTS, RESTRICTIONS AND EASEMENTS

FOR

PORTOFINO SHORES

COPY

JOANNE HOLMAN, CLERK OF THE CIRCUIT COURT - SAINT LUCIE COUNTY
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DECLARATION

OF

RESTRICTIVE COVENANTS

FOR

PORTOFINO SHORES

THIS DECLARATION is made this 12th day of November, 2003 by **PRIME HOMES AT PORTOFINO SHORES, Ltd**, a Florida limited partnership ("Declarant"). Declarant is the owner in fee simple of certain real property located in St. Lucie County, Florida pursuant to a plat to be recorded in the Records of Maps of St. Lucie County, Florida.

For the purpose of enhancing and protecting the value, attractiveness and desirability of the lots or tracts constituting such subdivision, Declarant states that all of the real property described above and each part thereof shall be held, transferred, sold, conveyed and occupied only subject to the following easements, covenants, conditions, charges, liens and restrictions, which shall constitute covenants running with the land and shall be binding on all parties having any right, title, or interest in the above described property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof. The Association, as hereinafter defined, is not a condominium association and therefore shall not be affected by the provisions of Chapter 718, Florida Statutes.

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Article I

Definitions

Section 1. "Articles" or "Articles of Incorporation" shall mean the Articles of Incorporation of the Association attached hereto as Exhibit "C."

Section 2. "Assessments" shall mean those payments due pursuant to Article VII, or elsewhere within the Declaration, whether General Assessments or Special Assessments (as hereinafter defined), or a combination thereof.

Section 3. "Association" shall mean and refer to the Association known as the Portofino Shores Property Owners' Association, Inc. a Florida not-for-profit corporation, its successors and assigns.

Section 4. "Board" or "Board of Directors" shall mean the Board of Directors of the Association.

Section 5. "By-Laws" shall mean the By-Laws of the Association attached hereto as Exhibit "D."

Section 6. "Common Area" shall mean and refer to the real property legally described in Exhibit "A" attached hereto and incorporated herein by reference, and any other interest in real property acquired by the Association and deemed Common Area either in this Declaration or in the instrument of conveyance, together with any improvements on such tracts including, without limitation, all structures, recreational facilities, off-street parking areas, private streets, sidewalks, street lights, and entrance features, but excluding any public utility installations thereon.

Section 7. "Declarant" or "Developer" shall mean and refer to PRIME HOMES AT PORTOFINO SHORES, LTD, a Florida limited partnership, its successors and assigns, if such successor or assignee acquires the undeveloped portion of the Properties and is designated as such by PRIME HOMES AT PORTOFINO SHORES, LTD. The Declarant may make partial or multiple assignments of its rights under this Declaration. All such assignees shall be deemed to be the Declarant as to those rights which may have been assigned to them. "Builder" shall mean and refer to Prime Homes Builders and any other residential building company acquiring Lots or tracts of vacant land from the Declarant for the purpose of construction and sale of homes, their successors and assigns if such successor or assignee acquires the undeveloped portion of the Properties.

Section 8. "General Assessments" shall mean and refer to Assessments levied as general assessments in accordance with Article VII, Section 2 of this Declaration, or elsewhere within this Declaration.

Section 9. "Unit" shall mean and refer to a portion of the Property, whether developed or undeveloped, intended for development, use and occupancy as a residence for a single family, and shall, unless otherwise specified, include within its meaning (by way of illustration but not limitation) single-family attached 2-story townhomes on separately platted Lots, as well as vacant land intended for development as such, all as may be developed, used, and defined as herein provided or as provided in Supplemental Declarations covering all or part of the Property. The term shall include all portions of the Lot or Unit owned including any residential dwelling or structure thereon. In the case of a parcel of vacant land or land in which improvements are under construction, the parcels shall be deemed to contain the numbers of Units designated for such parcel on the Plat, until such time as a certificate of occupancy is issued on all or a portion thereof by a local government entity having jurisdiction, after which the portion designated in the certificate of occupancy shall constitute a separate Unit or Units as determined above, and the number of Units in the remaining land, if any, shall continue to be determined in accordance with this paragraph. "Lot" shall mean and refer to the parcels of land within the Property shown on the Plat to be recorded upon which has been or in the future will be located an attached single family residential dwelling.

Section 10. "Maintenance" shall mean the exercise of reasonable care to keep buildings, roads, landscaping, lighting, and other related improvements and fixtures in a condition comparable

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to their original condition, normal wear and tear excepted. Maintenance of landscaping shall further mean the exercise of generally accepted garden management practices necessary to promote a healthy, weed-free environment for optimum plant growth.

Section 11. Intentionally Deleted

Section 12. Intentionally Deleted

Section 13. "Member" or "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot.

Section 14. "Mortgage" shall mean a mortgage or a deed of trust.

Section 15. "Mortgagee" shall mean and refer to any person or entity (i) holding a mortgage encumbering a Lot, which (ii) in the ordinary course of business makes, purchases, guarantees or insures mortgage loans, and which (iii) is not owned or controlled by the Owner of the Lot encumbered. A Mortgagee may include, but is not limited to, a federal or state chartered bank or savings and loan association, an insurance company, a real estate or mortgage investment trust, a pension or profit sharing plan, a mortgage company, the Government National Mortgage Association, the Federal National Mortgage Association, an agency of the United States or any other governmental authority, including the Veterans Administration and the Federal Housing Administration of the U.S. Department of Housing and Urban Development, or any other similar type of lender generally recognized as an institutional type lender. For definitional purposes only, a Mortgagee shall also mean the holder of any mortgage executed by or in favor of Declarant, whether or not such holder would otherwise be considered a Mortgagee.

Section 16. "Properties" shall mean and refer to all such Properties, and additions thereto (which additional Properties may or may not be contiguous to the real property described in Article II), as are subject to this Declaration or any Supplemental Declaration under the provisions of Article II hereof.

Section 17. "Special Assessment" shall mean and refer to Assessments levied as special assessments in accordance with Article VII, Section 4 of this Declaration or elsewhere within this Declaration.

Section 18. "Subdivision" shall mean the subdivided real property herein described and such additions thereto as may be brought within the jurisdiction of the association as herein provided.

Article II

Property Subject to this Declaration; Additions Thereto

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Section 1. Legal Description. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in St. Lucie County, Florida and is more particularly described in Exhibit "B" attached hereto and made a part hereof.

Section 2. Declarant's Right to Add or Withdraw Property. Declarant shall have the right, and in its sole discretion, to add additional property (which may or may not be contiguous to the real property described in Section 1) to the scheme of this Declaration. Declarant shall also have the right to withdraw property from the scheme of this Declaration subject to the approval of St. Lucie County. The addition or withdrawal by Declarant prior to turnover shall not require the consent or joinder of the Association, or any Owner or Mortgagee of any of the Properties. Subsequent to turnover, the Declarant must receive an affirmative vote by a majority of the Association Members prior to adding or withdrawing property. Upon addition of any property to the scheme of this Declaration, the Owners of such additional property shall be and become subject to this Declaration, including Assessments by the Association for their pro rata share of the Association expenses. The addition or withdrawal of lands as aforesaid shall be made and evidenced by filing in the Public Records of St. Lucie County, Florida, a Supplemental Declaration with respect to the lands to be added or withdrawn.

Article III

Powers of Association

Section 1. Powers. In addition to the powers provided by statute and in its Articles of Incorporation and By-Laws, the Association, through the action of its Board, shall have the power, but not the obligation, to acquire, by purchase, lease or otherwise, one or more dwelling units for occupancy by its employees or independent contractors, and to enter into an agreement or agreements from time to time with one or more person, firms or corporations for management services.

Section 2. Rules and Regulations. The Association, through the action of its Board, may make and enforce reasonable rules and regulations governing the use of the Properties, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions for violations of the rules and regulations as well as violations of this Declaration or the Articles or By-Laws may include reasonable monetary fines, which shall be levied as Special Assessments as provided for in Article VII, Section 4 of this Declaration, and suspension of the right to vote and the right to use the Common Areas. The Board shall, in addition, have the power to seek relief in any court for violations or to abate nuisances. In addition, the Association, through the action of its Board, may by contract or other agreement, enforce local ordinances or permit the County of St. Lucie to enforce ordinances on the Properties for the benefit of the Association or its Members.

Article IV

Membership in Association; Voting Rights

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Section 1. Member of the Association. Every Owner of a Lot, by taking title to a Lot shall be a Member of the Association and shall be subject to the terms and condition of these Declarations; membership shall be appurtenant to and may not be separated from ownership of a Lot.

Section 2. Class of Voting Member. The Association shall have two classes of voting members as follows:

Class A. The 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 a given Lot, all such persons shall be members and the vote for such Lot shall be exercised as they may determine among themselves. In no event shall more than one vote be cast with respect to any Lot owned by Class A members.

Class B. The Class B member shall be the Declarant. The Class B member shall be entitled to one (1) vote for each Lot in which it holds the interest required for membership by Section 1, plus two (2) votes for each vote which the sum of all Class A members are entitled to cast at any time, thus giving the Class B member a two-thirds majority of votes in the Association. The Class B membership shall cease upon the Declarant no longer holding the title to ninety percent (90%) of the Lots, including Lots on any additional property which may have been brought under the provisions of this Declaration by recorded supplemental declarations, as set forth in Section 2 of Article II hereof.

Notwithstanding any provision to the contrary, the Declarant shall have the right to elect the entire Board until such time as Declarant terminates the Class B membership. Thereafter, Declarant shall have the right to appoint one director so long as the Declarant owns any Lot in the Properties. The Declarant may waive its right to elect one or more directors by written notice to the Association, and thereafter such directors shall be elected by the Members. When the Declarant has terminated the Class B membership, all of the directors shall be elected by the Members in the manner provided in the Bylaws.

Within three (3) months after the date that 90% of the Units have been conveyed other than to a Developer (which definition does not include builders, contractors or others who purchase a parcel for the purpose of constructing improvements thereon for resale), the Declarant shall terminate the Class B Membership and the Declarant shall call a meeting, as provided in the Bylaws for Special Meetings, to advise the Members of the termination of Class B status and to provide for the turnover of control of the Board. On or before conveyance by the Declarant of the last Lot which it owns in the Properties (or sooner at the Declarant's option), the Declarant or its successors and assigns shall convey and transfer the record fee simple title to the Common Areas to the Association and the Association shall accept such conveyance, subject to taxes for the year of conveyance and to restrictions, limitations, conditions, reservations and easements of record.

The turnover of control of the Board shall take place in the following manner:

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1. The Membership shall identify and elect three Owners who are willing to serve on the Board of Directors.
2. The Declarant and the three Owners shall enter into a written mutual release executed prior to turnover and held in escrow.
3. Two of the three Declarant-appointed members of the Board of Directors shall tender their written resignations.
4. The remaining Declarant-appointed member of the Board of Director shall appoint two of the Owners selected by the Declarant to serve on the Board.
5. The remaining Developer-appointed member of the Board of Director shall tender his or her written resignation.
6. The remaining members of the Board of Directors shall appoint the third Owner designated by the Declarant to serve on the Board.

Article V

Maintenance

Section 1. Common Areas. The Association shall be obligated to accept any and all conveyances to it by Declarant of fee simple title, easements or leases to Open Space, Lakes, Surface Water and Storm Water Management Systems, Common Areas or Common Property, including Recreational Areas, subject to any and all obligations and restrictions imposed on such lands, or incumbent on the owner of such lands for the continued maintenance and operation of such lands, including, but not limited to, all environmental and drainage permits issued by any governmental authority. Use of the Common Areas is available to Members, guests and invitees of the Members, Declarant and Builder.

(a) Commencing with the date this Declaration is recorded, the Association shall be responsible and shall assume Declarant's obligations under any permit (such as by way of example only, water management) as well as for all maintenance of the Common Areas and any improvements or personal property thereon in a continuous and satisfactory manner and for the payment of taxes assessed against the Common Areas, if any, and any improvements and any personal property thereon accruing from and after the date these covenants are recorded. Taxes, if any, for all Common Areas shall be the responsibility of the Association as of the date of such recordation. The Association shall at all times maintain in good repair, and shall replace as scheduled, any and all improvements situated on the Common Areas (upon completion of construction by the Declarant), including, but not limited to, all recreational facilities, including playground, swimming pool, clubhouse, guardhouse, landscaping, paving, drainage structures, street lighting fixtures, signs, irrigation systems, sidewalks, and other structures, except public utilities, all such work to be done as ordered by the Board acting on a majority vote of the Board members. In addition, the Association shall maintain the Common Areas to the edge of the pavement of any collector or arterial street that is adjacent to the Common Areas. Furthermore, the Association may maintain any property owned by the CDD if it so chooses. Maintenance of the street lighting fixtures shall include the fixtures within the Common Areas and shall further extend to payment for electricity consumed in the illumination of such lights. In the event the Declarant, in its sole discretion, elects to install such street lighting, Declarant shall be entitled to all rebates or refunds of

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the installation charges and the Association hereby assigns such rebates or refunds to Declarant and the Association shall forthwith pay same to the Declarant.

(b) All work pursuant to this Section and all expenses hereunder shall be paid for by the Association through Assessments imposed in accordance with Article VII hereof. Such Assessments shall be against all Lots as set forth in Article VII, Section 2; provided, however, that the cost of any maintenance, repair or replacement caused by the negligent conduct of a Member or by the failure of a Member to comply with the lawfully adopted rules and regulations of the Association, this Declaration or the Articles or By-Laws, shall be levied as a Special Assessment against such Member. No Owner may waive or otherwise escape liability for the Assessments for such maintenance by non-use (whether voluntary or non-voluntary) of the Common Areas or abandonment of its right to use the Common Areas.

(c) Each Owner whose property abuts and/or is contiguous, in part and/or in whole, to any common area which has dimensions that are smaller than the typical Lot (estimated at 5,000 square feet) and which is not being irrigated and/or has limited access to a local homeowners' association installed irrigation system, shall have the obligation to irrigate such common areas.

Section 2. Declarant's Right to Common Areas. Declarant shall have the right from time to time to enter upon the Common Areas during periods of construction upon adjacent Properties and for the purpose of construction of any facilities on the Common Areas that Declarant elects to build. Declarant's rights in and to common areas, including any club house shall not relieve any Owner from making nor entitle any homeowner to prorate their making of any and all payments to the Association as prescribed hereby. Declarant hereby reserves the right, at all times after conveyance of the Common Property to the Association, to enter the Common Property, without prior notice, and to inspect the condition of the improvements and facilities owned by the Association. If Declarant determines, in its sole judgment, that the improvements or facilities are in need of repair or maintenance, it shall so notify the Association in writing, and it shall be the Association's sole obligation to promptly complete such repairs or maintenance. Failure of the Association to properly maintain and repair the Common Property shall relieve the Declarant of any liability to the Association or to any Member for any condition of the Common Property. Declarant shall have the right to make a record of its inspections, including, without limitation, by photographing and/or videotaping the Common Property, and shall have the right to perform tests or examinations to determine the condition of the Common Property, provided that Declarant shall indemnify the Association from any claims for personal injury, death, property damage or nonpayment asserted by persons claiming by, through or under the Declarant for injury, death or damage occurring as a result of such examinations or tests. Notwithstanding the foregoing, Declarant shall have no obligation to perform inspections of the Common Property owned by the Association. The deeds conveying the Common Property to the Association may contain a recitation of this reservation, however failure to recite such reservation in such deeds shall not affect the rights of Declarant herein reserved.

Section 3. Lot Maintenance.

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a. Lawn Maintenance. The Association shall provide maintenance of all lawn areas located within the Common Areas only. Irrigation systems for the Common Areas shall also be maintained by the Association, unless said Common Area is subject to the provisions of Article V, Section 1(c) as provided for above.

b. Lot Maintenance. Each Owner shall maintain or cause to be maintained the trees, shrubbery, grass and other landscaping on his Lot in a near, orderly and attractive manner and consistent with the general appearance of the developed portions of the Property. Maintenance shall include, but not be limited to, watering, pruning and replacing as necessary the trees, shrubbery, grass and other landscaping located on each Lot. In addition to the above maintenance obligations, each Owner shall maintain all parking, pedestrian, recreational and other open areas, including the repaving of private driveways as necessary, located on the Lot, in a neat, orderly and attractive manner and consistent with the general appearance of the developed portions of the Property.

c. Exterior Maintenance. Each individual Owner shall provide exterior maintenance for their building as follows: paint, repair, replace and care for garage doors, fences and exterior building surfaces. In addition, each individual Owner shall maintain and repair its front residence door, windows, screening, driveway, entrance walk, patio deck, light fixtures, mail box, swimming pool, pool deck, roof, gutters and down spouts; provided, however, that the Association reserves the right to maintain such areas if, in its sole discretion, the Association deems it desirable. The Board shall estimate the cost of any such exterior maintenance for each year and shall fix the Assessments for each year, but the Board shall, thereafter, make such adjustment with the Owners as is necessary to reflect the actual cost of such exterior maintenance. Such Special Assessments for exterior maintenance shall be against all Lots as set forth in Article VII hereof (except for the exterior maintenance specifically requested by an Owner); provided, however, that the cost of any exterior maintenance caused by the negligent conduct of an Owner or by the failure of such Owner to comply with this Declaration, the Articles or the By-Laws, or with the lawfully adopted rules and regulations of the Association, shall be levied as a Special Assessment against such Owner. In addition, the Association may levy a Special Assessment against any Owner for any damage or injury caused by the negligent conduct of such Owner to any easement areas granted to provide access to perform the exterior maintenance. Nothing contained herein shall obligate the Association to make repairs or replacements of improvements damaged by fire, windstorm, hail or other casualty; such repairs or replacements shall be made by the Owner of the Lot which suffers damage. The Association shall not be obligated to repair any mechanical equipment (e.g., air conditioning unit) which is part of any residence located on any Lot, nor shall it be responsible for any repairs which could be made pursuant to the terms of any warranty covering a residence.

Section 4. Remedies for Failure to Maintain. In the event an Owner shall fail to maintain the Lot as provided herein, the Association shall have the right to enter upon or into the Lot to correct, repair, maintain and restore the Lot and any improvements erected thereon, and any such entry by the Association shall not be deemed a trespass. No such entry shall be made without prior written notice mailed to the last known address of the Owner advising the Owner that unless corrective action is taken within ten (10) days, the Association will exercise its right to enter the Lot

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pursuant to this Section. All costs related to such correction, repair or restoration shall be the personal obligation of the Owner and shall become a lien against the Lot with the same force and effect of a lien created by the Owner's failure to pay Assessments when due. Nothing in this Section shall give rise to an obligation of the Association to maintain the exterior, interior or any portion of the Lot.

Article VI

Architectural Control Board

Section 1. Architectural Control Board. The Architectural Control Board (hereinafter "ACB") shall be a standing committee of the Association appointed by the Board. The Architectural Control Board shall have the power to promulgate such rules and regulations as it deems necessary to carry out the provisions and intent of this Article and other provisions of this Declaration. The initial rules and regulations of the ACB are set forth in Exhibit "E" attached hereto and made a part hereof, and any amendment or modification of such rules and regulations shall not be deemed an amendment to this Declaration and need not be recorded in the Public Records. The members of the ACB need not be members of the Association and shall not be entitled to any compensation for services performed pursuant to this Section. A majority of the ACB may take any action the ACB is empowered to take and may designate a representative to act for the ACB. This Article VI shall not apply to the Declarant.

Section 2. Owner to Obtain Approval. No Owner other than the Developer shall make, install, place, or remove any building, fence, screen enclosure, porch, wall, patio area, pool, spa, landscaping or any other alteration, addition, improvement, or change of any kind or nature to, in or upon any portion of the Common Areas or the Owner's Lot, unless the Owner first obtains the written approval of the ACB, except that such approval shall not be required for any maintenance or repair which does not result in a material change in any improvement. In addition no Owner shall be prohibited from including Xeriscape or Florida friendly landscaping.

Section 3. Association's Consent. Any request by an Owner for approval by the ACB to any addition, alteration, improvement, or change shall be in writing and shall be accompanied by plans and specifications or other details as the ACB may deem reasonably necessary in connection with its determination as to whether or not it will approve same. Approval of any request shall not be unreasonably withheld, and shall not be withheld in a discriminatory manner or in a manner which unreasonably prohibits the reasonable development of any Lot but may be withheld due to aesthetic considerations. Notwithstanding the foregoing, the ACB may withhold approval for upgraded landscaping to be installed by an Owner within that portion of its Lot to be maintained by the Association solely due to maintenance and related considerations, and the ACB may withhold approval for construction of swimming pools due to nuisance and related considerations (such as the likelihood of interference with other residents of the Properties during construction). The ACB shall notify the Owner of its approval or disapproval by written notice within thirty (30) days after request for such consent is made in writing to the ACB, and in the event the ACB fails to disapprove any request within such thirty (30) day period, the consent shall be deemed approved and upon request

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the ACB shall give written notice of such approval. In consenting to any plans or specifications, the ACB may condition such consent upon changes being made. If the ACB consents to any plan and specifications, the Owner may proceed to make the alteration, addition, improvement, or change in strict conformance with the plans and specifications approved by the ACB, and subject to any conditions of the ACB's approval. The Board of Directors shall have the right to review and overturn the decisions of the ACB. Any Owner whose request for approval from the ACB has been denied, shall have the right to submit a written request to the Board for a review of the decision of the ACB. Such request must be accompanied by a complete copy of each and every plan, drawing and document submitted to the ACB, as well as copies of any correspondence or written communication between the Owner, or applicant, and the ACB, and shall state the arguments the Owner, or applicant, desires the Board to consider, and the exact form of relief requested. All such appeals shall be deemed *de novo* applications which shall be reviewed by the Board rather than the ACB, but which shall otherwise be governed by the requirements and procedures described in this Article.

Section 4. No Liability. Neither the ACB nor the Association shall be liable to any Owner in connection with the approval or disapproval of any alteration, addition, improvement, or change. Furthermore, any approval of any plans or specifications by the ACB shall not be deemed to be a determination that such plans or specifications are complete or do not contain defects, or in fact meet any standards, guidelines and/or criteria of the ACB, or are in fact architecturally or aesthetically appropriate, or comply with any applicable governmental requirements, and neither the ACB nor the Association shall be liable for any deficiency, or any injury resulting from any deficiency, in such plans and specifications.

Section 5. Remedy for Violations. In the event this Section is violated in that any alteration, addition, improvement, or change is made without first obtaining the approval of the ACB, or is not made in strict conformance with any approval granted by the ACB, the Association shall specifically have the right to demand that an Owner stop, remove and/or alter any alteration, addition, improvement or change in a manner which complies with the requirements of the ACB. The Association maintains the right to enter onto a Lot in violation to repair or remove any unauthorized alterations and may assess the Owner for the cost and/or impose daily penalties in accordance with this Declaration. Notwithstanding the above, the Association may pursue injunctive relief or any other legal or equitable remedy available to the Association in order to accomplish such purposes. Any action by the Association to enforce this Section must be commenced within one (1) year after the date of the violation. The foregoing shall be in addition to any other remedy set forth herein for violations of this Declaration.

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Article VII

Assessments

Section 1. Creation of the Lien and Personal Obligation for the Assessments. The Declarant, for each Lot owned by it within the Properties, hereby covenants, and each Owner of any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association annual, General Assessments for general expenses as outlined in Section 2 hereof, and Special Assessments as provided in Section 5 hereof, such Assessments to be fixed, established and collected from time to time as hereinafter provided. The General Assessments and Special Assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which such Assessment is made and shall also be the personal obligation of the person who was the Owner of such Lot at the time when the Assessment fell due. Assessments as to any Lot not containing an improvement shall be twenty-five percent (25%) of the Assessments for a Lot containing an improvement that is attributable to such Lot. Assessments shall be assessed against the Lots in the manner determined by the Association unless otherwise set forth in this Declaration.

The full Assessment as to each Lot upon which an improvement is constructed shall commence on the first day of the full calendar month after a certificate of occupancy for the improvement is issued, or upon the conveyance of the Lot by the Declarant or upon the first occupancy of the improvement, whichever occurs first. The obligation of each Owner to pay Assessments, both General and Special, shall not be abated nor decreased, in whole or in part, by reason of unfinished common elements, including but not limited to, community swimming pool(s) and/or club houses. The Declarant and Builder and all persons serving as an officer or agent of Declarant shall be excluded from the obligation to make any payments otherwise required of any homeowner notwithstanding the fact that one or more of the model homes may be transferred into the name of the Declarant or Builder or an officer or agent of the Declarant.

Section 2. General Assessments. The General Assessments levied by the Association shall be used exclusively for the general expenses of the Association. Disbursements shall be made by the Association for such purposes as are deemed necessary for the discharge of its responsibilities herein, for the common benefit of the Owners, and to reimburse Declarant for start-up expenses advanced by Declarant, excluding capital expenditures, but including personal property, furniture, or other items purchased or leased by Declarant. General expenses are any and all charges for the maintenance of the Common Areas and exterior maintenance of the Lots (except that specifically requested by an Owner), and expenses related with operating the Association for the Members of the Association and their families residing with them, and their guests and tenants, including, but not limited to:

a. Expenses of administration, maintenance, repair or replacement of the Common Areas;

b. Water, sewer, garbage, electrical, lighting, telephone, gas and other necessary utility service for the Common Areas.

c. Acquisition of furnishings and equipment for the Common Areas as may be determined by the Association, including without limitation all equipment, furnishings, and personnel necessary or proper for the use of the recreational facilities;

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d. Maintenance and repair storm drains, sanitary sewers and private streets within the confines of the Properties.

e. Fire insurance covering the full insurable replacement value of the Common Area with extended coverage.

f. Liability insurance insuring the Association against any and all liability to the public, to any Owner, or to the invitees or tenants of any Owner arising out of their occupation and/or use of the Common Area. The policy limits shall be set by the Association, and shall be reviewed at least annually and increased or decreased in the discretion of the Association.

g. Workers' compensation insurance to the extent necessary to comply with applicable law, and any other insurance deemed necessary by the Board.

h. A standard fidelity bond covering all members of the Board and all other employees of the Association in an amount to be determined by the Board.

i. Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance, taxes, or assessments which the Association is required to secure or pay pursuant to the terms of this Declaration or by law, or which shall be necessary or proper in the opinion of the Board for the operation of the Common Areas, for the benefit of lot owners, or for the enforcement of these restrictions.

j. Reasonable reserves deemed necessary by the Board for repair, replacement or addition to the Common Area.

k. Any other expenses agreed upon as general expenses by the Association.

l. As otherwise set forth in this Declaration.

By a majority vote of the Board, the Board shall adopt an annual budget for the subsequent fiscal year which shall provide for allocation of expenses in such a manner that the obligations imposed by this Declaration will be met. Annual Assessments shall be established by dividing the total Common Expenses of the Association by the total number of Lots or Units subject to assessment to derive a uniform base assessment amount applicable to all Lots. Special Assessments for capital improvements or expenses applicable to all Lots within the Property shall be established in the same manner; however, Special Assessments applicable to a particular Lot for expenses attributable exclusively to such Lot, or the Owner thereof, shall be determined by dividing the applicable expense by the number of Lots to which it applies.

Section 3. Maximum Annual Assessment Rate. Notwithstanding anything to the contrary, the maximum annual General Assessment on each Dwelling Unit shall not exceed $50.00 per month through the date which is one year from the date this Declaration is recorded (Guaranty Period). With Declarant responsible for any shortfall until the end of the Guaranty Period. Declarant shall have the right, in its sole discretion, to extended the Guaranty Period beyond the one year period, on one or more occasions by written notice to the Association. Such notice shall specify the new expiration date for the Guaranty Period and the revised amount of the annualized General Assessment guaranty. In no event shall the Guaranty Period continue to be in effect subsequent to the date upon which Declarant shall cease to control the Association, as provided for in the Declaration.

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Section 4. Date of Commencement of General Assessments; Due Dates. The General Assessments shall commence on the first day of the month next following the recordation of this Declaration. Thereafter, the Board shall fix the date of commencement and amount of the Assessment against each Lot at least thirty (30) days in advance of the commencement period. The General Assessments shall be payable in advance in monthly installments or as otherwise determined by the Board.

Following the Guaranty Period, the amount of the General Assessment may be changed at any time by the Board from that originally adopted or that which is adopted in the future. The General Assessment shall be for the calendar year, but the amount of the General Assessment to be levied during any period shorter than a full calendar year shall be in proportion to the number of months remaining in such calendar year.

Section 5. Special Assessments. The Association may levy a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement to the Common Area, including fixtures and personal property related thereto. In addition, a Special Assessment may be levied against one or more Lots for the following:

a. Special services to a specific Lot or Lots which services are requested by the Owner(s) thereof.
b. Charges for expenses of the Association which are not general expenses but which are attributable to a specific Lot or Lots and which are designated as a special charge.
c. Reimbursement for damages caused by an Owner, Owners, their family members, guests, invitees or tenants.
d. Late charges, user fees, fines and penalties.
e. Any other charge which is not a general expense.
f. Any general expense which exceeds the amount budgeted, or any emergency expense which exceeds the amount of any reserves or other Association funds.
g. As otherwise set forth in this Declaration.

The Board shall fix the amount and due date of any Special Assessment by resolution, which resolution shall also set forth the Lot(s) subject to such Special Assessment.

Section 6. Trust Funds. The portion of all General Assessments collected by the Association as reserves for future expenses, and the entire amount of all Special Assessments collected for capital improvements, shall be held by the Association in trust for the owners of all Lots, as their interest may appear.

Section 7. Declarant Payment of Assessments. Declarant shall be liable for any shortfall in the payment of General Assessments for operating expenses of the Association during the Guaranty Period only. Throughout the Guaranty Period, Declarant shall not be liable for General

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Assessments for any Lots and/or Units owned by Declarant, but in lieu thereof, Declarant shall be responsible for any shortfall in general expenses of the Association receivable from the other Owners. During the Guaranty Period the General Assessments shall be established by the Declarant, though not exceeding the Maximum Amount established therein, based upon Declarant's good faith estimate of what the expenses of the Association would be if all Lots within the Property were improved, so the General Assessments for such period would be approximately what said general Assessments would be if the development for the Property as contemplated by Declarant was complete. When the Declarant has sold all Lots, the Declarant shall have no further liability of any kind to the Association for the payments of Assessments, deficits or contributions.

Section 8. Working Capital Fund. The Declarant shall establish a working capital fund for the initial months of operation of the Association, which shall be collected by the Declarant from each Lot purchaser at the time of conveyance of each Lot to such purchaser in an amount equal to two (2) months of the annual General Assessment for each Lot. This fund is paid by individual homebuyers and not a Builder. Each Lot's share of the working capital fund shall be collected and transferred to the Association at the time of closing of the sale of the respective Lot. The purpose of this fund is to assure that the Board will have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary or desirable by the Board. Amounts paid into the fund are not to be considered as advance payment of General Assessments. The working capital fund is not a "reserve account" and may be spent by Declarant for all purposes in the furtherance of Declarant's objectives and general expenditures.

Section 9. Collection of Assessment; Effect of Non-Payment of Assessments; The Personal Obligation of the Owner; The Lien; Remedies of the Association. If any Assessment is not paid within ten (10) days after the due date, the Association shall have the right to charge the default Owner a late fee of ten percent (10%) of the amount of the Assessment, or Ten and No/100 Dollars ($10.00), whichever is greater, plus interest at the then highest rate of interest allowable by law from the due date until paid. If there is no due date applicable to any particular Assessment, then the Assessment shall be due ten (10) days after written demand by the Association. If any Owner is in default in the payment of any Assessment owed to the Association for more than thirty (30) days after written demand by the Association, the Association upon written notice to the defaulting Owner shall have the right to accelerate and require such defaulting Owner to pay Assessments to the Association for the next twelve (12) month period, based upon the then existing amount and frequency of Assessments. In the event of such acceleration, the defaulting Owner shall continue to be liable for any increases in the General Assessments, for all Special Assessments, and/or for all other Assessments payable to the Association. If the Assessments and any late fees and interest are not paid on the date when due, then such Assessments and any late fees and interest shall become delinquent and shall, together with such interest thereon and the cost of collection thereof as hereinafter provided, thereupon and following the Association sending to the defaulting and/or delinquent Owner fourteen (14) days prior written notice of placing a lien, same shall become a continuing lien on the Owner's Lot which shall bind such Lot in the hands of the Owner, its heirs, devisees, personal representatives, successors and assigns. Any individual who acquires title to a Lot upon the death of an Owner or by operation of law shall be personally liable for unpaid Assessments and late fees with respect to such Lot. In any voluntary conveyance, the grantee shall be jointly and

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severally liable with the grantor for all unpaid Assessments made prior to the time of such voluntary conveyance, without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefor.

The Association may bring an action at law against the Owner personally obligated to pay the same or may record a claim of lien against the Lot on which the Assessment and late fees are unpaid, or may foreclose the lien against the Lot on which the Assessment and late fee are unpaid, in like manner as a foreclosure of a mortgage on real property, or pursue one or more of such remedies at the same time or successively, and there shall be added to the amount of such Assessment and late fee, attorney's fees and costs of preparing and filing the claim of lien and the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the Assessment and late fee as above provided and a reasonable attorney's fee to be fixed by the court together with the costs of the action, and the Association shall be entitled to attorney's fees in connection with any appeal of any such action.

It shall be the legal duty and responsibility of the Association to enforce payment of the Assessments and late fees hereunder. The Association shall, upon demand at any time, furnish to any Owner liable for an Assessment a certificate in writing signed by an officer or agent of the Association, setting forth whether such Assessment has been paid as to the Lot owned by the Owner making request therefore. Such certificate shall be conclusive evidence of payment of any Assessment to the Association therein stated to have been paid.

Section 10. Subordination of the Lien to Mortgages. The lien of the Assessment provided for in this Article VII shall be subordinate to the lien of any first Mortgagee recorded prior to the recordation of a claim of lien for unpaid Assessments. A Mortgagee in possession, a receiver, a purchaser at a foreclosure sale, or a Mortgagee that has acquired title by deed in lieu of foreclosure, and all persons claiming by, through or under such purchaser or Mortgagee shall hold title subject to the liability and lien of any Assessment becoming due after such foreclosure or conveyance in lieu of foreclosure. Any unpaid Assessment which cannot be collected as a lien against any Lot by reason of the provisions of this Section 10 shall be deemed to be an Assessment divided equally among, payable by, and assessed against all Lots, including the Lot as to which the foreclosure (or conveyance in lieu of foreclosure) took place.

Section 11. Exempt Property. The Board shall have the right to exempt property subject to this Declaration from the Assessments, charges and liens created herein if such property is used (and as long as it is used) for any of the following purposes:

a. As an easement or other interest therein dedicated and accepted by a public authority and devoted to public use or to the Association.
b. As a part of the Common Areas as defined in Article I hereof.
c. If the property is exempt from ad valorem taxation by the State of Florida.

Article VIII

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Easements

Section 1. Members' Easements. Each Member of the Association and each tenant, agent and invitee of such Member shall have a permanent and perpetual easement for ingress and egress for pedestrian and vehicular traffic over and across the walkways, driveways and roads from time to time laid out on the Common Areas, for use in common with all such Members, their tenants, agents and invitees. The portion of the Common Areas not used, from time to time, for walkways and/or driveways shall be for the common use and enjoyment of the Members of the Association and each Member shall have a permanent and perpetual easement for pedestrian traffic across all such portions of such tracts and for the use of same in such manner as may be regulated by the Association. The foregoing easements are subject to the following:

a. The right and duty of the Association to levy assessments against each Lot for the purpose of maintaining the Common Areas and facilities in compliance with the provisions of this Declaration and with any restrictions on the various plats of the Properties from time to time recorded;

b. The right of the Association to suspend the voting rights and right to use the Common Areas and facilities by an Owner for any period during which any Assessment against his Lot remains unpaid for a period of over ninety days (provided Owner has first received 14 day advance written notice of said suspension); and for any infraction of this Declaration, the Articles or By-Laws, or any lawfully adopted and published rules and regulations of the Association.

c. The right of the Association to adopt and enforce and regulations governing the use of the Common and all facilities at any time situated thereon.

The right of an Owner to the use and enjoyment of the Common Areas and facilities thereon shall extend to the members of its immediate family who reside with such Owner, subject to regulations from time to time adopted by the Association in its lawfully adopted and published rules and regulations.

Section 2. Easements Appurtenant. The easements provided in Section 1 shall be appurtenant to and shall pass with the title to each Lot.

Section 3. Utility Easements. Public utilities may be installed underground in the Common Areas when necessary for the service of the Properties or additional lands for which Declarant holds an option to purchase, but all use of utility easements shall be in accordance with the applicable provisions of this Declaration.

Section 4. Public Easements. Firefighters, police, health, sanitation and other public service personnel and vehicles shall have a permanent and perpetual easement for ingress and egress over and across the Common Areas.

Section 5. Easements of Encroachment. The Declarant hereby reserves an exclusive

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easement for the unintentional encroachment by any structure upon the Common Area caused by or resulting from, construction, repair, shifting, settlement or movement of any portion of the Property, which exclusive easement shall exist at all times during the continuance of such encroachment as an easement appurtenant to the encroaching Property to the extent of such encroachment. An easement is hereby granted for encroachment in favor of an Owner in the event any portion of his or her dwelling unit or appurtenant improvements such as a driveway encroaches upon any of the Lots as a result of inaccuracies in survey, initial construction by Declarant, or due to settlement or movement or caused by changes in the building design or site plan, provided such changes have been approved by appropriate governmental authorities. Such encroaching improvements installed by Declarant shall remain undisturbed for so long as the encroachment exists. Any easement for encroachment shall include an easement for the maintenance and use of the encroaching improvements in favor of the Owner thereof; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of an Owner, Tenant, or the Association.

Section 6. Additional Easement. The Declarant (during any period in which the Declarant has any ownership interest in the Properties) and the Association shall each have the right to grant such additional electric, telephone, gas, sprinkler, irrigation, cable television or other easements, and to relocate any existing easement in any portion of the Properties and to grant access easements and to relocate any existing access easements in any portion of the Properties as the Declarant or the Association shall deem necessary or desirable, for the proper operation and maintenance of the Properties, or any portion thereof, or for the general health or welfare of the Owners or for the purpose of carrying out any provisions of this Declaration; provided that such easements or the relocation of existing easements will not prevent or unreasonably interfere with the use of the Lots for dwelling purposes.

Section 7. Association Easement. For the purpose solely of performing its obligations under the provisions of this Declaration, the Association, through its duly authorized agents, employees or independent contractors, shall have the rights, after reasonable notice to the Owner, to enter upon any Lot at reasonable hours of any day. In the event of an emergency, such right of entry shall exist without notice. Each Owner hereby grants to the Association, its duly authorized agents, employees or independent contractors such easements for ingress and egress, across the Lots and through improvements constructed upon the Lots, as may be reasonably necessary to effect and perform the exterior maintenance aforementioned.

Section 8. Construction Easement. Each Lot and the Common Area is hereby subjected to a permanent easement appurtenant to any adjoining Lot to permit the construction, existence, maintenance, repair and restoration of structures located on such adjoining Lot, including roof structures which overhang and encroach upon the servient Lot or Common Area, provided that the construction of such structure is permitted and approved as elsewhere herein provided. The Owner of the dominant tenement shall have the right, at all reasonable times, to enter the easement area in order to construct improvements, and to maintain, repair and restore any improvements located on the dominant tenement, provided, however that such entry shall be allowed only during daylight hours and with the prior knowledge of the owner of the servient tenement. In case of

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emergency, such right of entry shall be immediate, not restricted as to time and not be conditioned upon prior knowledge of the owner of the servient tenement. The Owner of the servient tenement shall not place any improvements, material or obstacle in or over the easement area on the servient tenement which would unreasonably interfere with the rights of the owner of the dominant tenement granted by this Section. Any such improvement, material or obstacle shall be promptly removed by the Owner of the servient tenement at that Owner's expense when requested by the Owner of the dominant tenement or Declarant notwithstanding any lapse of time since such improvement, material or other obstacle was placed in or over the easement area. In the event an Owner fails to move such improvement, material or obstacle, then the Association may remove same and the expense of such removal shall be charged to the Owner as a Special Assessment.

Article IX

General Restrictive Covenants

Section 1. Applicability. The provisions of this Article IX shall be applicable to all Lots situated within the Properties.

Section 2. Land Use. No Lot shall be used except for residential purposes. Temporary uses for model homes, parking lots, construction trailer, construction storage areas and/or sales offices shall be permitted by the Declarant and Builder.

Section 3. Change in Buildings. No Owner shall make or permit any structural modification or alteration of any building except with the prior written consent of the ACB or its successor, and such consent may be withheld if, in the sole discretion of the party denying the same, it appears that such structural modification or alteration would adversely affect or in any manner endanger other dwelling units. No building shall be demolished or removed without the prior written consent of both the Board and Owner(s) of the immediately adjoining Lots. In the event any building is demolished or removed, if replaced, said building shall be replaced by the Owner of such Lot with a unit of similar size and type within twelve (12) months. In the event the building is not replaced, then the Owner shall sod and maintain the Lot.

Section 4. Building Location. Buildings shall be located in conformance with the Zoning Code of the County of St. Lucie, Florida (the "Zoning Code") and any specific zoning approvals thereunder, or as originally constructed on a Lot by Developer or its successor or assignee. Whenever a variance or special-exception as to building location or other item has been granted by the authority designated to do so under the Zoning Code, said variance or special exception is hereby adopted as an amendment to this Section and any future variance or special exception as to building location or other item shall constitute an amendment of this Section.

Section 5. Landscaping of Easements. In addition to the easements reserved herein, easements for drainage, installation and maintenance of utilities and for ingress and egress are shown on the recorded plat(s) of the Properties. No structure, planting or other material may be placed or permitted to remain within these easements that will interfere with vehicular traffic or prevent

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maintenance of utilities. Public utility companies servicing the Properties and the Association, and their successors and assigns, shall have a perpetual easement for the installation and maintenance of water lines, sprinkler lines, sanitary sewers, storm drains, gas lines, electric and telephone lines, cables and conduits, including television cables and conduits and such other installations as may be required or necessary to provide maintenance and utility services to the Lots and/or the Common Areas under and through the utility easements as shown on the plat(s) and under and through such portions of the rear of each Lot beyond the building, as such buildings may from time to time be located. Any damage caused to pavement, driveways, drainage structures, sidewalks, other structures, or landscaping in the installation and maintenance of such utilities shall be promptly restored and repaired by the utility whose installation or maintenance caused the damage. All utilities within the subdivisions, whether in streets, rights-of-way or utility easements, shall be installed and maintained underground, provided, however, that water and sewer treatment facilities and control panels for utilities may be installed and maintained above ground.

Section 6. Nuisances. No noxious or illegal activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood or any other Owner. In the event of any question as to what may be or become a nuisance, such question shall be submitted to the Association for a decision in writing, which decision shall be final. In addition, no weeds, underbrush or other unsightly growths shall be permitted to grow or remain upon any Lot. Owner is responsible to operate the Lot irrigation system in order to maintain the landscaping. No refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon; and in the event that the Owner shall fail or refuse to keep the demised premises free of weeds, underbrush or refuse piles or other unsightly growths or objects, then the Association may enter upon said premises and remove the same at the expense of the Owner, and such entry shall not be deemed a trespass. All garbage or trash containers must be underground or placed in walled-in areas so that they shall not be visible from the adjoining Properties other than when placed curbside for "pick-up." Provided, however, any portion of the Properties not yet developed by Developer shall be maintained in a clean condition but shall not be expected to be maintained in a manicured condition.

Section 7. Temporary Structures. No structure of a temporary character, or trailer, tent, mobile home or recreational vehicle shall be permitted on any Lot either temporarily or permanently, except that the Developer and Builder may park a trailer on the Properties during periods of construction. Declarant and Builder shall have the right to utilize all sales trailers and model homes in connection with the sale of other non-affiliated communities for which Declarant and/or Builder are developing and/or building.

Section 8. Signs. Except for one sign of not more than one square foot used to indicate the name of the resident, no "for rent", "for sale" or other sign of any kind shall be displayed to the public view on the Properties without the prior consent of the Board and the Association provided that the Declarant and/or Builder, so long as it has not sold all of its Lots in the Properties, shall retain the right to disapprove any signs displayed to the public view. Notwithstanding the foregoing, this Section shall not apply to the Declarant and/or Builder for as long as it holds title to any portion of the Properties.

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Section 9. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in the Properties nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in the Properties. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any portion of the land subject to these restrictions.

Section 10. Pets, Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lots except that dogs, cats or other household pets may be kept, but no more than a total of two (2); provided, however, those pets which are permitted to roam free, or in the sole discretion of the Association, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Units or the Owner of any property located adjacent to the Properties, may be expelled and removed from the Premises by the Board. No pets shall be kept, bred or maintained for any commercial purpose. Dogs which are household pets shall be confined to a leash whenever they are outside.

Section 11. Visibility at Intersections. No obstruction to visibility at street intersections shall be permitted.

Section 12. Commercial Trucks, Trailers, Campers and Boats. No trucks or commercial vehicles, campers, mobile homes, motor homes, house trailers, or trailers of every other description shall be permitted to be parked or to be stored at any place on any Lot, except only during the periods of approved construction on said Lot, and except that they may be stored within garages. Boats and boat trailers may be parked on the Lot provided that the boat and/or boat trailer is not visible from the street, or to adjacent lots, or across any lakes. The term "commercial vehicle" shall include all automobiles, trucks and vehicular equipment, including station wagons, which bear signs or shall have printed on same some reference to any commercial undertaking or enterprise, or vehicles of more than six feet (6') in height. This prohibition of parking shall not apply to temporary parking of trucks and commercial vehicles, such as for pick-up, delivery and other commercial services. Notwithstanding the foregoing, this Section shall not apply to the Declarant and/or Builder for so long as it holds title to any portion of the Properties.

Section 13. Fences. No fence, wall or other structure shall be erected in the front yard, back yard or side yard except as originally installed by Declarant or its assignee unless approved by the ACB.

Section 14. Garbage and Trash Disposal. No garbage, refuse, trash or rubbish shall be deposited on any Lot except in a walled-in area; provided, however, that the requirements from time to time of St. Lucie, County for disposal or collection shall be complied with. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

Section 15. Drying Areas. No clothing, laundry or wash shall be aired or dried on any portion of any Lot in an area exposed to view from any other Lot. Drying areas will be permitted

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only in locations approved by the ACB and only when protected from view by screening or fencing approved by the ACB.

Section 16. Gas Containers. No gas tank, gas container, or gas cylinder other than a maximum of two (2) per Lot of those for personal gas grills (and except those placed by the Declarant or approved by the ACB in connection with the installation of swimming pools and/or barbecues) shall be permitted to be placed on or about the outside of any house or any ancillary building, and all such items (except those placed by the Declarant or approved by the ACB in connection with the installation of swimming pools and/or barbecues) shall be installed underground in every instance where gas is used. In the alternative, gas containers may be placed above ground if enclosed on all sides by a decorative safety wall approved by the ACB.

Section 17. Communication Equipment. Except as may be installed by the Declarant, no exterior radio or television antenna, satellite dish, microwave antenna or other antenna or device for sending or receiving television or radio signals may be erected or maintained on the exterior of any Unit in the Property in such a manner as to be visible to an observer from the street in front of the Unit. Television and/or radio receiving devices may be erected on the exterior of a Unit in a location that does not allow them to be visible to an observer from the street in front of the Unit if such devices are approved for installation by the ACB, provided however, that satellite receiving dishes in excess of 39 inches in diameter shall be prohibited on all Lots. Notwithstanding the foregoing, the Board of Directors of the Association shall have the authority to establish size limitations for television and radio receiving devices that do not have a material effect upon the appearance of the Unit which devices may be approved for use in areas that are visible to an observer from the street if advances in technology create devices that are unobtrusive and do not materially affect the appearance of the Unit. By acceptance of a deed to a Unit within the Property, each Owner agrees that this restrictive covenant is a reasonable limitation on the Owners' ability to receive television and/or radio transmissions, and (1) does not unreasonably delay or prevent installation, maintenance or use of television or radio receiving devices, (2) does not unreasonably increase the cost of installation, maintenance or use of television or radio receiving devices, (3) does not preclude reception of an acceptable quality television or radio signal, and (4) does not impose an unnecessary burden, expense or delay on any Owner. Each Owner covenants with Declarant and every other Owner that the rights of the Association and all other Owners of Units in the Property in the protection of property values and the architectural character and aesthetics of the Property supersedes and takes precedence over the interests of each individual Owner in the placement of television and radio receiving devices, and that the limitations established in this Declaration provide each Owner reasonable alternatives for receiving quality television and radio signals without the necessity of erecting receiving devices in locations that are visible to observers from the street in front of the Unit or otherwise materially affect the appearance of the Unit. Therefore, each Owner agrees to be bound by this limitation and waives the benefits of any contrary rule or regulation promulgated by the Federal Communications Commission or other governmental body or agency.

Section 18. Drainage. No change in any drainage pattern of any Lot, after issuance of a certificate of occupancy for the dwelling thereon, or of any portion of the Properties, after all

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contemplated improvements have been completed, shall be made which will cause undue hardship to an adjoining Lot or adjoining property with respect to natural runoff of rain water.

Section 19. Leasing. No Lot shall be leased for less than a six (6) month period, nor shall a Lot be leased more than two (2) times during any twelve (12) month period. Each Owner shall be responsible for the acts and omissions, whether negligent or willful, of any person residing on its Lot, and for all guests, and invitees of the Owner or any such resident, and in the event the acts or omissions of any of the foregoing shall result in any damage to the Common Areas, or any liability to the Association, the Owner shall be assessed for same as in the case of any other Special Assessment. Furthermore, any violation of any of the provisions of this Declaration, of the Articles or the By-Laws, by any resident of any Lot, or any guest or invitee of an Owner or any resident of a Lot, shall also be deemed a violation by the Owner, and the Owner shall be subject to the same liability as if such violation was that of the Owner.

Section 20. Business Use. No trade or business may be conducted in or from any Lot, except that an Owner or occupant residing in a Lot may conduct business activities within the Lot so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Lot; (b) the business activity conforms to all zoning requirements and other applicable governmental regulations for the Property; (c) the business activity does not involve persons coming on to the Property who do not reside in the Property or door-to-door solicitation of residents within the Property; and (d) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Property, as may be determined in the sole discretion of the Board. The terms "business" and "trade" as used in this Section shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an on-going basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether (i) such activity is engaged in full or part time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor.

Section 21. Boating, Fishing and Swimming. Boating and fishing in any water bodies within the residential property or Common Areas may be subject to any Rules promulgated from time to time by the Board, or any governmental authority. However, (i) no vessels using combustion engines shall be allowed on any lakes, and (ii) no swimming shall be permitted in any lakes. Neither Declarant, the Association nor any of their officers, directors, committee members, employees, management agents, contractors or subcontractors (collectively, the "Listed Parties") shall be liable for any property damage, personal injury or death occurring in, or otherwise related to, any water body; all persons using the same do so at their own risk. All Owners and users of any portion of the Project shall be deemed, by virtue of their acceptance of the deed or use of any facility at the Project, to have agreed to release the Listed Parties from all claims for any and all changes in the quality and level of the water in such bodies. All persons are hereby notified that from time to time alligators and other wildlife may habitate or enter into water bodies within or nearby the properties and may pose a threat to persons, pets and property, but that the Listed Parties are under no duty to protect

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against, and do not in any manner warrant or insure against, any death, injury or damage caused by such wildlife.

Neither Declarant, the Association, nor any of the Listed Parties shall be liable or responsible for maintaining or assuring the safety, water qualify or water level of/in any lake, pond, canal, creek, stream or other water body within the Property, except as such responsibility may be specifically imposed by, or contracted for with, an applicable governmental or quasi-governmental agency or authority. Further, none of the Listed Parties shall be liable for any property damage, personal injury or death occurring in , or otherwise related to, any water body. All persons using same do so at their own risk. All Owners and users of any portion of the Property located adjacent to or having a view of any of the aforesaid water bodies shall be deemed, by virtue of their acceptance of the deed to or use of, such property, to have agreed to release the Listed Parties from all claims for any and all changes in the quality and level of the water in such bodies.

Section 22. Enforcement. Failure of an Owner to comply with this Declaration, the Articles, By-Laws or rules and regulations adopted by the Association shall be grounds for immediate action to recover sums due the Association, for costs, damages, injunctive relief, or any combination thereof. The Association shall have the right to suspend the right of a violating Owner, his family, guests, lessees, sublessees or invitees to use the Common Areas for a reasonable period of time.

With respect to any tenant or any person present on any Lot or any portion of the Properties other than an Owner and the members of its immediate family permanently residing with the Owner on the Lot, if such person materially violates any provision of this Declaration, the Articles of Incorporation or Bylaws, or if such person is the source of annoyance to the residents of the Properties or willfully damages or destroys any Common Areas or personal property of the Association, then upon written notice by the Association, such person shall be required to immediately leave the Properties and if such person does not do so, the Association is authorized to commence an action to evict such tenant or compel the person to leave the Properties and, where necessary, to enjoin such person from returning. The expense of any such action, including attorneys' fees, may be assessed against the applicable Owner, and the Association may collect such Assessment and have a lien for same as elsewhere provided. The foregoing shall be in addition to any other remedy of the Association.

Section 23. Fines. In addition to all other remedies, in the sole discretion of the Board, a reasonable fine or fines, as provided in the Association's rules and regulations, which may be adopted from time to time, may be imposed upon an Owner for failure of an Owner, his family, guests, lessees, sublessees, or invitees to comply with any provisions of the Declaration, Articles, By-Laws or rules and regulations of the Association.

Article X

Ownership in the Master Association

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INTENTIONALLY DELETED

Article XI

Insurance and Casualty Losses

Section 1. Insurance. The Board, or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk insurance, if reasonably available, for all insurable improvements on the Common Areas. If blanket all-risk coverage is not reasonably available, then at a minimum an insurance policy providing fire and extended coverage shall be obtained. This insurance shall be in an amount sufficient to cover one hundred percent (100%) of the replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

The Board shall also obtain a public liability policy covering the Common Areas, the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents. The public liability policy shall have at least a One Million Dollar ($1,000,000.00) single person limit as respects bodily injury and property damage, a Two Million Dollar ($2,000,000.00) limit per occurrence, if reasonably available, and a Five Hundred Thousand Dollar ($500,000.00) minimum property damage limit.

Premiums for all insurance on the Common Areas shall be common expenses of the Association. The policy may contain a reasonable deductible, and the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost. The deductible shall be paid by the party who would be responsible for the repair in the absence of insurance and, in the event of multiple parties, shall be allocated in relation to the amount each party's loss bears to the total.

Cost of insurance coverage obtained by the Association for the Common Areas shall be included in the General Assessment as provided in Article VII.

All such insurance coverage obtained by the Board shall be written in the name of the Association as trustee for the respective benefited parties as further identified in (b) below. Such insurance shall be governed by the provisions hereinafter set forth:

a. All policies shall be written with a company licensed to do business in Florida which holds a Best's rating of A or better and is assigned a financial size category of XI or larger as established by A. M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating.

b. All policies on the Common Areas shall be for the benefit of the Owners and their Mortgagees as their interests may appear.

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c. Exclusive authority to adjust losses under policies in force on the Properties obtained by the Association shall be vested in the Board.

d. In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees.

e. All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the St. Lucie County, Florida, area.

f. The Board shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

i. a waiver of subrogation by the insurer as to any claims against the Board, its manager, the Owners, and their respective tenants, servants, agents, and guests;

ii. a waiver by the insurer of its rights to repair, and reconstruct, instead of paying cash;

iii. that no policy may be canceled, invalidated or suspended on account of any one or more individual Owners;

iv. that no policy may be canceled, invalidated, or suspended on account of the conduct of any member of the Board, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner, or Mortgagee;

v. that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

vi. that no policy may be canceled or substantially modified without at least thirty (30) days' prior written notice to the Association.

g. The Board may, in its discretion, obtain such other types of insurance for the Association as it deems necessary.

In addition to the other insurance required by this section, the Board shall obtain, as a common expense, worker's compensation insurance, if and to the extent necessary, and a fidelity bond or bonds on Directors, officers, employees, and other persons handling or responsible for the

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Association's funds. The amount of fidelity coverage shall be determined in the Directors best business judgment but may not be less than three (3) months' assessments, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be canceled or substantially modified without at least ten (10) days' prior written notice to the Association.

Section 2. Individual Insurance. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket all-risk casualty insurance on the Lot(s) and structures constructed thereon as provided for in Section 1 of this Article XI. Each Owner further covenants and agrees that in the event of a partial loss or damage and destruction resulting in less than total destruction of structures comprising its Lot, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction, and the Owner shall pay the costs of any repair or reconstruction which are not covered by insurance proceeds. In the event that the structure is totally destroyed, the Owner may decide not to rebuild or to reconstruct, in which case the Owner shall clear the Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction and the Owner shall continue to maintain the Lot in a neat and attractive condition.

Section 3. Disbursement of Proceeds. Policies shall be disbursed as follows:

a. If the damage or destruction to the Common Areas for which the proceeds are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repairs or reconstruction to the Common Areas or, in the event no repair or reconstruction is made, after making such settlement as is necessary and appropriate with the affected Owner or Owners and their Mortgagee(s) as their interests may appear, shall be retained by and for the benefit of the Association and placed in the capital reserves account.

b. If the Association determines, in accordance with Section 4 of this Article XI, that the damage or destruction to the Common Areas for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed in the manner provided for excess proceeds in subsection (a) above.

Section 4. Damage and Destruction.

a. Immediately after the damage or destruction by fire or other casualty to all or any part of the Properties covered by insurance written in the name of the Association, the Board of Directors, or its duly authorized agent, shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Properties. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Properties to substantially the same condition in which they existed prior to the fire or other casualty.

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b. Any damage or destruction to the Common Areas shall be repaired or reconstructed unless at least seventy-five (75%) percent of the total vote of the Association shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No Mortgagee shall have the right to participate in the determination of whether the Common Areas damage or destruction shall be repaired or reconstructed.

Section 5. Repair and Reconstruction. If the damage or destruction to the Common Areas for which the insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the Members, levy a Special Assessment against all Owners on the same basis as provided for Article VII. Additional Assessments may be made by the Board in like manner at any time during or following the completion of any repair or reconstruction.

Article XII

Sales Activity and Declarant's Rights

Notwithstanding any provision herein to the contrary, until the Declarant has completed, sold and conveyed all of the Lots within the Properties, neither the Owners, nor the Association nor their use of the Common Areas shall interfere with the completion of the contemplated improvements and the sale of Lots and any other sales activity of the Declarant, whether related to the Properties or other developments of the Declarant. The Declarant (or its duly authorized agents or assigns) may make such use of the unsold Lots and the Common Areas as may facilitate such completion and sale including, but not limited to, the maintenance of sales offices, construction trailers, model homes, and/or parking lots for the showing of the property, and the display of signs, billboards, flags, placards and visual promotional materials. The Declarant shall have the right to use unimproved Lots for temporary parking, if any, for prospective purchasers and such other parties as Declarant determines. Each Lot and the Common Area is hereby subjected to an easement for the purposes set forth herein.

Article XIII

Mortgagees' Rights

The following provisions are for the benefit of holders, insurers, or guarantors of first mortgages on Lots in the Properties. To the extent applicable, necessary, or proper, the provisions of this Article apply to both this Declaration and to the Articles and Bylaws of any Sub-Association.

Section 1. Special FHLMC Provision. So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing

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three Sections of this Article. Unless two-thirds (2/3) of the first Mortgagees or Owners give their consent, the Association shall not:

a. By act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Areas which the Association owns, directly or indirectly (the granting of easements for public utilities or for other public purposes consistent with the intended use of the Properties shall not be deemed a transfer);

b. Change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner:

c. By act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Lots and of the Common Areas;

d. Fail to maintain fire and extended coverage insurance as required by this Declaration; or

e. Use hazard insurance proceeds for any Common Areas losses for other than the repair, replacement, or reconstruction of such Properties.

The provisions of this Section shall not be construed to reduce the percentage vote that must be obtained from Mortgagees or Members where a larger percentage vote is otherwise required for any of the actions contained in this Section.

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

Section 2. No Priority. No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

Section 3. Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

Section 4. Amendment by Board. Should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provision of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Article to be

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recorded to reflect such changes. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under this Declaration, Articles, By-Laws or Florida law for any of the acts set out in this Article. Until Turnover, any amendments to this Declaration (including, without limitation, any amendment which results in the annexation of additional lands into the Property, the merger or consolidation of the Association with any other owners associations, the dedication of any part of the Common Area for public safety, and the conveyance, mortgaging, or encumbrance of any part of the Common Property) must have prior written approval of the FHA or VA in accordance with HUD regulations, if the FHA or VA is the insurer of any Mortgage encumbering a Lot.

Section 4 (a) SUNTRUST BANK, holds a first mortgage on the entire Property as of the date hereof (the "Acquisition/Construction Mortgage"). As long as the Acquisition/Construction Mortgage is in effect, this Declaration may not be amended in any way that impairs or jeopardizes the rights of the holder of the Acquisition/Construction Mortgage and no Common Area or other portions of the Property may be withdrawn from the scheme of this Declaration, without in each such case the prior written consent of the holder thereof.

Section 5. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response form the Mortgagee within thirty (30) days of the date of the Association's request.

Article XIV

Community Systems

Section 1. "Community Systems" shall mean and refer to any and all cable television, telecommunication, security, alarm, irrigation, sprinkler or other lines, pipes, conduits, wires, amplifiers, towers, antennae, equipment, materials, installations and fixtures (including those based on, containing or serving future technological advances now not known) installed by Developer and/or Declarant or pursuant to any grant of easement or authority by Developer and/or Declarant within the Properties and serving more than one Lot/Unit. Developer and/or Declarant shall have the right, but not the obligation, to convey, transfer, sell or assign all or any portion of the rights, duties or obligations with respect thereto to the Association, or any other person or entity (including an Owner, as to any portion of a Community System located on/in his Lot/Unit). If and when any of the aforesaid entities receives such a conveyance, sale, transfer or assignment, such entity shall automatically be deemed vested with such rights of Developer and/or Declarant with regard thereto as are assigned by Developer and/or Declarant in connection therewith; provided, however, that if the Association is the applicable entity, then any Community Systems or portions thereof shall be deemed Common Areas hereunder and the Association's rights, duties and obligations with respect thereto shall be the same as those applicable to other Common Areas unless otherwise provided by Developer and/or Declarant. Any

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conveyance, transfer, sale or assignment made by Developer and/or Declarant pursuant to this Section (i) may be made with or without consideration, (ii) shall not require the consent or approval of the Association, or any Owner and (iii) if made to the Association, shall be deemed to have been automatically accepted (with all rights, duties, obligations and liabilities with respect thereto being deemed to have been automatically assumed).

Section 2. Notices and Disclaimers as to Community Systems. Developer, Declarant, the Association, or their successors, assigns or franchisees and any applicable cable telecommunications system operator (an "Operator"), may enter into contracts for the provision of security services through any community systems. DEVELOPER, DECLARANT, THE ASSOCIATION AND THEIR FRANCHISEES, AND ANY OPERATOR, DO NOT GUARANTEE OR WARRANT, EXPRESSLY OR IMPLIEDLY, THE MERCHANTABILITY OR FITNESS FOR USE OF ANY SUCH SECURITY SYSTEM OR SERVICES, OR THAT ANY SYSTEM OR SERVICES WILL PREVENT INTRUSIONS, FIRES OR OTHER OCCURRENCES, OR THE CONSEQUENCES OF SUCH OCCURRENCES, REGARDLESS OF WHETHER OR NOT THE SYSTEM OR SERVICES ARE DESIGNED TO MONITOR SAME; AND EVERY OWNER OR OCCUPANT OF PROPERTY SERVICED BY THE COMMUNITY SYSTEMS ACKNOWLEDGES THAT DEVELOPER, DECLARANT, THE ASSOCIATION OR ANY SUCCESSOR, ASSIGNEE OR FRANCHISEE OF THE DEVELOPER AND/OR DECLARANT OR ANY OF THE OTHER AFORESAID ENTITIES AND ANY OPERATOR, ARE NOT INSURERS OF THE OWNER OR OCCUPANT'S PROPERTY OR OF THE PROPERTY OF OTHERS LOCATED ON THE PREMISES AND WILL NOT BE RESPONSIBLE OR LIABLE FOR LOSSES, INJURIES OR DEATHS RESULTING FROM SUCH OCCURRENCES. It is extremely difficult and impractical to determine the actual damages, if any, which may proximately result from a failure on the part of a security service provider to perform any of its obligations with respect to security services and, therefore, every owner or occupant of property receiving security services through the community systems agrees that Developer, Declarant, the Association or any successor, assign or franchisee thereof and any Operator assumes no liability for loss or damage to property or for personal injury or death to persons due to any reason, including, without limitation, failure in transmission of an alarm, interruption of security service or failure to respond to an alarm because of (a) any failure of the Owner's security system, (b) any defective or damaged equipment, device, line or circuit, (c) negligence, active or otherwise, of the security service provider or its officers, agents or employees, or (d) fire, flood, riot, war, act of G-d or other similar causes which are beyond the control of the security service provider. Every owner or occupant of property obtaining security services through the Community Systems further agrees for himself, his grantees, tenants, guests, invitees, licensees, and family members that if any loss or damage should result from a failure of performance or operation, or from defective performance or operation, or from improper installation, monitoring or servicing of the system, or from negligence, active or otherwise, of the security service provider or its officer, agents or employees, the liability, if any, of Developer, Declarant, the Association, any franchisee of the foregoing and the Operator or their successors or assigns, for loss, damage, injury or death sustained shall be limited to a sum not exceeding Two Hundred Fifty and No/100 ($250.00) U.S. Dollars, which limitation shall apply irrespective of the cause or origin of the loss or damage and notwithstanding that the loss or damage results directly or indirectly from negligent performance, active or otherwise, or non-performance by an officer, agent or employee of Developer, Declarant, the Association or any franchisee, successor or assign of any of same or any Operator.

Further, in no event will Developer, Declarant, the Association, any Operator or any of their franchisees, successors or assigns, be liable for consequential damages, wrongful death, personal injury or commercial loss.

In recognition of the fact that interruptions in cable television and other community systems services will occur from time to time, no person or entity described above shall in any manner be liable, and no user of any community system shall be entitled to refund, rebate, discount or offset in applicable fees, for any interruption in community systems services, regardless of whether or not same is cause by reasons within the control of the then provider(s) of such services.

Section 3. Certain Reserve Rights of Developer and/or Declarant with Respect to Community Systems. Without limiting the generality of any other applicable provisions of this Declaration, and without such provisions limiting the generality hereof, Declarant hereby reserves and retains to itself:

(a) the title to any Community Systems and a perpetual easement for the placement and location thereof;

(b) the right to connect, from time to time, the Community Systems to such receiving or intermediary transmission source(s) as Developer and/or Declarant may in its sole discretion deem appropriate, including, without limitation, companies licensed to provide CATV service in St. Lucie County, Florida, for which service Developer and/or Declarant shall have the right to charge any users a reasonable fee (which shall not exceed any maximum allowable charge provided for in the Code of Laws and Ordinances of St. Lucie County; and

(c) the right to offer from time to time security services through the Community Systems.

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Article XV

General Provisions

Section 1. Duration. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Declarant, the Association or the Owner of any Lot subject to this Declaration, and their assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by the then Owners of two-thirds of the Lots has been recorded, agreeing to change or terminate said covenants and restrictions in whole or in part.

Section 2. Notice. Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when personally delivered or mailed,

postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 3. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants and failure by the Declarant, the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Association is hereby empowered to adopt reasonable rules and regulations for the imposition of fines to be levied against any Owner for failure to comply with the terms of this Declaration, the Articles and By-Laws, or the rules and regulations of the Association. Any rule or regulation subjecting any Owner to fines shall include provisions for notice, hearing, appeal and fines. Fines shall constitute an Assessment due to the Association and upon failure to pay such fine within the period prescribed by the Association shall become a charge and continuing lien upon the Owner's Lot.

Section 4. 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.

Section 5. Amendment. Prior to the closing of the first Lot, Declarant may amend this Declaration at any time. After such closing, the Declarant may amend this Declaration so long as it still owns property described in Exhibit "B" for development as part of the Properties and so long as the amendment has no material and adverse effect upon any right of any Owner; thereafter and otherwise, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing seventy-five percent (75%) of the total votes of the Association, including seventy-five percent (75%) of Members other than the Declarant. However, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment must be recorded in the Public Records of St. Lucie County, Florida. No amendment shall discriminate against any Owner or class or group or Owners, unless the Owners so affected join in the execution of the amendment. No amendment shall change the number of votes of any Owner or increase any Owner's proportionate share of the common expense unless the Owners and Mortgagees of such Lots so affected by such amendment join in the execution of the amendment. No amendment may prejudice or impair the rights or priorities of Mortgagees granted hereunder unless all Mortgagees join in the execution of the amendment. 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, Declarant, unless Declarant joins in the execution of the amendment.

Section 6. FHA/VA Approval. As long as there is a Class B membership, and so long as the Declarant wishes to maintain its HUD/VA approved status, the following actions will require the prior approval of the Department of Housing and Urban Development or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration. Furthermore, to the extent Declarant elects to, and if required as a condition of

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obtaining approval by FHA/VA, Declarant may make modifications to this Declaration, without the necessity of joinder of any Owner or any other party who may be affected.

Section 7. Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of seventy-five percent (75%) of the Board.

Section 8. Waiver. The failure of the Association to enforce any of the covenants or restrictions contained in this Declaration, the Articles, By-Laws or any rules and regulations shall not constitute a waiver of the right to enforce any other covenant or restriction.

Section 9. Governing Law and Venue. This Declaration shall be governed by and construed and interpreted according to the laws of Florida. All actions or causes arising out of the provisions of this Declaration shall be brought in St. Lucie County, Florida.

Section 10. Attorneys' Fees. Should any party bound by this Declaration employ an attorney or attorneys to enforce any of the provisions hereof, or to protect its interest in any matter arising under this Declaration, or to recover damages for any breach of this Declaration, the party prevailing shall be entitled to payment by the other party of all reasonable costs, charges and expenses, including attorneys' fees in the trial and appellate courts, expended or incurred in connection therewith by the prevailing party.

Section 11. Waiver of Jury Trial. All parties bound by this Declaration hereby knowingly, voluntarily, and intentionally waive the right all may have to a trial by jury in respect of any litigation based hereon, or arising out of, under or in connection with this Declaration.

Section 12. Effective Date. This Declaration shall become effective upon its recordation in the St. Lucie County Public Records.

EXECUTED the date first above written.

Signed, sealed and delivered
In the presence of:

Maria B Chandler

Lorraine Vanella

PRIME HOMES AT PORTOFINO SHORES, LTD., a Florida Limited Partnership
By: PORTOFINO SHORES BUILDERS, INC.,
its General Partner
By: _____ 11.17.2003
Name: LARRY M. ABBO
Title: VICE PRESIDENT

STATE OF FLORIDA)
SS:
COUNTY OF ~~PALM BEACH~~ BROWARD)

COPY

The foregoing instrument was acknowledged before me, this 12 day of ~~July~~ November, 2003, by Larry M. Abbo as President of Portofino Shores Builders, Inc., a Florida corporation, as General Partner of Prime Homes at Portofino Shores, Ltd.

Notary Public
My Commission Expires

LORRAINE VANELLA
MY COMMISSION # DD 067857
EXPIRES: January 19, 2006
Bonded Thru Notary Public Underwriters

COPY

JOINDER

PORTOFINO SHORES PROPERTY OWNERS ASSOCIATION, 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 foregoing Declaration and Exhibits attached thereto.

IN WITNESS WHEREOF, PORTOFINO SHORES PROPERTY OWNERS ASSOCIATION, INC. has caused these presents to be signed in its name by its proper officer and its corporate seal to be affixed this 12th day of ~~September~~ November, 2003.

WITNESSES:

PORTOFINO SHORES PROPERTY OWNERS ASSOCIATION, INC.

By: Alyson Yellin
Name: Alyson Yellin
Title: President

STATE OF FLORIDA)
) SS.
COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this 12th day of ~~September~~ November, 2003 by ~~and~~ Alyson Yellin as President of Portofino Shores Property Owners Association, on behalf of the corporation. They are personally known to me or have produced as identification.

Signature of person taking acknowledgment

Lorraine Vanella
Name typed, printed or stamped

Title or rank

Serial number, if any

My Commission Expires: 1/19/06

LORRAINE VANELLA
MY COMMISSION # DD 067857
EXPIRES: January 19, 2006
Bonded Thru Notary Public Underwriters

COPY

JOINDER AND CONSENT OF MORTGAGEE

Suntrust Bank, being the owner and holder of those certain Mortgage(s) recorded March 6, 2003 in Official Records Book 1669, Page 1842, and Official Records Book _____, Page _____, Public Records of St. Lucie County, Florida, encumbering all or portions of the real property described in the foregoing Declaration of Association Covenants and Restrictions for PORTOFINO SHORES, hereby consents to and joins in the filing of the said Declaration.

Signed, sealed and delivered
in the presence of:

SunTrust Bank
By: Ruben Pedron, First Vice President

Witness Signature

(Printed Name of Witness)
ANA BARRIGA

Witness Signature

(Printed Name of Witness)
Lizbeth Castellano

STATE OF FLORIDA)
) SS.
COUNTY OF Miami Dade)

The foregoing instrument was acknowledged before me this 14th day of November, 2003 by Ruben Pedron as First Vice President of SunTrust Bank. They are personally known to me or have produced N/A as identification.

Signature of person taking acknowledgment

Name typed, printed or stamped

Title or rank

Serial number, if any

My Commission Expires:

Lizbeth Castellano
My Commission CC959426
Expires August 8, 2004

COPY

EXHIBIT 'A'

Being all that part of the East one-half of Section 12, Township 34 South, Range 39 East, St. Lucie County, Florida, lying North of the Turnpike Feeder Road, AND all that part of the West one-quarter of Section 7, Township 34 South, Range 40 East, lying North of said Turnpike Feeder Road;

LESS AND EXCEPTING therefrom a parcel of approximately 2.9 acres described as: A part of the West 146. 34 feet of the Southeast one-quarter of Section 12, Township 34 South, Range 39 East, described as follows:

BEGINNING at the intersection of the North-South one-quarter Section line with the Northerly right-of-way line of the Sunshine State Parkway Feeder road, which point is 86.61 feet South of the Northeast corner of the Southeast one-quarter of the Southwest one-quarter of said Section 12, Township 39 South, Range 34 East; thence Northeasterly along the Northerly right-of-way line of the Sunshine State Parkway Feeder Road (a distance of) 205.62 feet to a point, which point at its closest distance is 146.34 feet from the North-South one-quarter Section line of said Section 12, Township 34 South, Range 39 East; thence north, parallel with the said North-South one-quarter Section Line, a distance of 847.84 feet; thence West146.34 feet to the said North-South one-quarter Section line; thence South along said one-quarter Section Line, a distance of 988.34 feet, more or less to the POINT OF BEGINNING.

ALSO INCLUDING any and all right, title and interest in a certain Easement dated October 27, 1970, filed November 16, 1970 at O.R. Book 188, Page 907, Clerk's file No. 200989, St. Lucie County Records; Easement dated November 16, 1970, at O.R. Book 188, Page 908, Clerk's file No. 200990, St. Lucie County Records; and Easement dated October 12, 1970, filed November 16, 1970, at O.R. Book 188, Page 896-897, Clerk's file No. 200987, St. Lucie County Records.

EXCEPTING therefrom: A part of the Southeast one-quarter of Section 12, Township 34 South, Range 39 East, described as follows:

Commencing at the of the North-South one-quarter Section line with the Northerly right-of-way line of the Sunshine State Parkway Feeder Route, which point is 86.61 feet South of the Northeast corner of the Southeast one-quarter of the Southwest one-quarter of said Section 12, Township 39 South, Range 34 East; thence Northeasterly along the Northerly right-of-way line of the Sunshine State Parkway Feeder Route (a distance of) 205.62 feet to the POINT OF BEGINNING of the tract hereby described:

From said POINT OF BEGINNING run Northeasterly along the right-of-way of Sunshine State Parkway Feeder Route (a distance of) 200.00

COPY

feet; thence North parallel with said North-South one-quarter Section line to a point that would be intersected by a line extended due East

from a point on said North-South one-quarter Section line that is 901.72 feet North of the Southwest corner of the Northwest one-quarter

of the Southeast one-quarter of said section 12; thence West (along said line extended due East) to a point that is due North of the POINT

OF BEGINNING; thence South and parallel with said one-quarter Section Line, a distance of 847.84 feet, more or less to the POINT OF

BEGINNING.

ALSO LESS the Access Easement in favor of Spanish Lakes Country Club Village as described in O.R.Book 337, Page 454, of the public records of St. Lucie County, Florida.

CONTAININD 182.32 ACRES MORE OR LESS.

LESS: Any lots as depicted on the Plat particular to the Portofino Shores subdivision, AND less any real property dedicated to the Community Development District particular to the Portofino Shores community.

COPY

EXHIBIT 'B'

PORTOFINO SHORES
LEGAL DESCRIPTION

Being all that part of the East one-half of Section 12, Township 34 South, Range 39 East, St. Lucie County, Florida, lying North of the Turnpike Feeder Road, AND all that part of the West one-quarter of Section 7, Township 34 South, Range 40 East, lying North of said Turnpike Feeder Road;

LESS AND EXCEPTING there from a parcel of approximately 2.9 acres described as: A part of the West 146. 34 feet of the Southeast one-quarter of Section 12, Township 34 South, Range 39 East, described as follows:

BEGINNING at the intersection of the North-South one-quarter Section line with the Northerly right-of-way line of the Sunshine State
Parkway Feeder road, which point is 86.61 feet South of the Northeast corner of the Southeast one-quarter of the Southwest one-quarter of
said Section 12, Township 39 South, Range 34 East; thence Northeasterly along the Northerly right-of-way line of the Sunshine State Parkway
Feeder Road (a distance of) 205.62 feet to a point, which point at its closest distance is 146.34 feet from the North-South one-quarter
Section line of said Section 12, Township 34 South, Range 39 East; thence north, parallel with the said North-South one-quarter Section Line,
a distance of 847.84 feet; thence West146.34 feet to the said North-South one-quarter Section line; thence South along said one-quarter
Section Line, a distance of 988.34 feet. more or less to the POINT OF BEGINNING.

ALSO INCLUDING any and all right, title and interest in a certain Easement dated October 27, 1970, filed November 16, 1970 at O.R. Book 188, Page 907, Clerk's file No. 200989, St. Lucie County Records; Easement dated November 16, 1970, at O.R. Book 188, Page 908, Clerk's file No. 200990, St. Lucie County Records; and Easement dated October 12, 1970, filed November 16, 1970, at O.R. Book 188, Page 896-897, Clerk's file No. 200987, St. Lucie County Records.

EXCEPTING there from: A part of the Southeast one-quarter of Section 12, Township 34 South, Range 39 East, described as follows:

Commencing at the of the North-South one-quarter Section line with the Northerly right-of-way line of the Sunshine State Parkway Feeder Route, which point is 86.61 feet South of the Northeast corner of the Southeast one-quarter of the Southwest one-quarter of said Section 12, Township 39 South, Range 34 East; thence Northeasterly along the Northerly right-of-way line of the Sunshine State Parkway Feeder Route (a distance of) 205.62 feet to the POINT OF BEGINNING of the tract hereby described;

ORIGINAL

From said POINT OF BEGINNING run Northeasterly along the right-of-way of Sunshine State Parkway Feeder Route (a distance of) 200.00 feet; thence North parallel with said North-South one-quarter Section line to a point that would be intersected by a line extended due East from a point on said North-South one-quarter Section line that is 901.72 feet North of the Southwest corner of the Northwest one-quarter of the Southeast one-quarter of said section 12; thence West (along said line extended due East) to a point that is due North of the POINT OF BEGINNING; thence South and parallel with said one-quarter Section Line, a distance of 847.84 feet, more or less to the POINT OF BEGINNING.

ALSO LESS the Access Easement in favor of Spanish Lakes Country Club Village as described in O.R. Book 337, Page 454, of the public records of St. Lucie County, Florida.

CONTAININD 182.32 ACRES MORE OR LESS.

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EXHIBIT "C"

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SECRETARY OF STATE
TALLAHASSEE FLORIDA

(11)

ARTICLES OF INCORPORATION

OF

PORTOFINO SHORES PROPERTY OWNERS ASSOCIATION, INC.,

a Florida Not for Profit Corporation

The undersigned incorporator, Alyson Yellin, for the purpose of forming a corporation not for profit pursuant to the laws of the State of Florida, Florida Statutes, Chapter 617, hereby adopts the following Articles of Incorporation.

PREAMBLE

PRIME HOMES AT PORTOFINO SHORES, LTD a Florida limited partnership, ("Declarant"), owns certain real property in St. Lucie County, Florida (the "Property"), and intends to execute and record a Declaration of Covenants and Restrictions (the "Declaration"), which will affect the Property. This corporation not for profit (the "Association") is being formed as the homeowners' association to administer the Declaration, and to perform the duties and exercise the power pursuant to the Declaration, as and when the Declaration is recorded in the Public Records of St. Lucie County, Florida.

All of the defined terms contained in the Declaration shall apply to these Articles of Incorporation, and to the Bylaws of the Association.

ARTICLE I. - NAME

The name of the corporation is: PORTOFINO SHORES PROPERTY OWNERS ASSOCIATION, INC.,

ARTICLE II. - PRINCIPAL OFFICE

The initial principal office and mailing address of this corporation is: 21218 Saint Andrews Boulevard, Suite 510, Boca Raton, Florida 33433.

ARTICLE III. - PURPOSE

The purposes for which this corporation is organized are as

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follows:

1. To operate as a corporation not for profit pursuant to Chapter 617 of the Florida Statutes or any successor thereto.

2. To enforce and exercise the duties of the Association as provided in the Declaration.

3. To promote the health, safety, welfare, comfort and social and economic benefit of the members of the Association.

ARTICLE IV. - POWERS AND DUTIES

This corporation shall have the following powers and duties:

1. All of the common law and statutory powers of a corporation not for profit under the laws of the State of Florida.

2. To administer, enforce, carry out and perform all of the acts, functions, rights and duties provided in, or contemplated by, the Declaration, including, but not limited to, the following:

a. To own, purchase, sell, mortgage, encumber, lease, administer, manage, operate, maintain, improve, repair and/or replace real and personal property.

b. To make and collect Assessments against Owners to defray the costs, expenses and losses incurred or to be incurred by the Association, and to use the proceeds thereof in the exercise of the Association's powers and duties.

c. To enforce the provisions of the Declaration, these Articles, and the Bylaws.

d. To make, establish and enforce reasonable rules and regulations governing the use of Common Property and Lots, and any other property under the jurisdiction of the Association.

e. To grant and modify easements, and to dedicate property owned by the Association to any public or quasi-public agency, authority or utility company for public, utility, drainage and cable television purposes.

f. To borrow money for the purposes of carrying out the powers and duties of the Association.

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g. To exercise control over exterior alterations, additions, improvements, or changes in accordance with the terms of the Declaration.

h. To obtain insurance as provided by the Declaration.

i. To employ personnel necessary to perform the obligations, services and duties required of or to be performed by the Association and for proper operation of the properties for which the Association is responsible, or to contract with others for the performance of such obligations, services and/or duties.

j. To sue and be sued.

k. To contract for cable television services for the Property.

ARTICLE V. - MEMBERS

1. The members of the Association shall consist of all of the record owners of Lots. Membership shall be established as to each Lot upon the recording of the Declaration. Upon the transfer of ownership of fee title to, or fee interest in, a Lot, whether by conveyance, devise, judicial decree, foreclosure, or otherwise, and upon recording among the public records in St. Lucie County of the deed or other instruments establishing the acquisition and designating the Lot affected thereby, the new Owner designated in such deed or other instrument shall thereupon become a member of the Association, and the membership of the prior Owner as to the Lot designated shall be terminated; provided, however, the Association shall not have the responsibility or obligation of recognizing any such change in membership until it has been delivered a true copy of the applicable recorded deed or other instrument.

2. The share of each member in the funds and assets of the Association, and membership of each member in this Association, shall not be assigned, hypothecated or transferred except as an appurtenance to the Lot for which that membership has been established.

3. On all matters upon which the membership shall be entitled to vote, there shall be only one vote for each Lot. In the event any Lot is owned by more than one person and/or entity, the vote for such Lot shall be cast in the manner provided by the Bylaws. Any person or entity owning more than one Lot shall be entitled to one vote for each Lot owned.

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ARTICLE VI. - TERM OF EXISTENCE

The term of existence of the Association shall be perpetual.

ARTICLE VII. - DIRECTORS

1. The property, business and affairs of the Association shall be managed by a board of directors (the "Board") which shall consist of not less than three (3) directors, and which shall always be an odd number. The Bylaws may provide for a method of determining the number of directors from time to time. In the absence of a determination as to the number of directors, the Board shall consist of three (3) director. The director(s) are not required to be members of the Association.

2. All of the duties and powers of the Association existing under the Declaration, these Articles and the Bylaws shall be exercised exclusively by the Board, its agents (including, without limitation, officers, committees or boards elected or appointed by the Board), contractors or employees, subject to approval by the members only when specifically required.

3. The Declarant shall have the right to appoint all of the directors until Declarant has conveyed 100% of the Lots within the Property. The Declarant may waive its right to elect one or more directors by written notice to the Association, and thereafter such directors shall be elected by the members. When the Declarant no longer owns any Lot within the Property, all of the directors shall be elected by the members in the manner provided in the Bylaws.

4. Directors may be removed and vacancies on the Board shall be filled in the manner provided by the Bylaws; provided, however, any director appointed by the Declarant may be removed only by the Declarant, and any vacancy on the Board shall be appointed by the Declarant if, at the time such vacancy is to be filled, the Declarant is entitled to appoint the directors.

5. The names and addresses of the members of the initial Board of Directors, who shall hold office until their successors are appointed or elected, are as follows:

Alyson Yellin
Alyson Yellin
21218 Saint Andrews Boulevard
Suite 510

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Boca Raton, Florida 33433

Brad Yellin
21218 Saint Andrews Boulevard
Suite 510
Boca Raton, Florida 33433

Marie Chandler
21218 Saint Andrews Boulevard
Suite 510
Boca Raton, Florida 33433

ARTICLE VIII. - OFFICERS

The officers of the Association shall be a president, vice president, secretary, treasurer and such other officers as the Board may from time to time by resolution create. The same person may hold more than one (1) office. The officers shall serve at the pleasure of the Board, and the Bylaws may provide for the removal from office of officers, for filling vacancies, and for the duties of the officers. The names of the officers who shall serve until their successors are designated by the Board are as follows:

Alyson Yellin

Alyson Yellin	President
Brad Yellin	Vice President
Alyson Yellin	Secretary/Treasurer

ARTICLE IX. - INDEMNIFICATION, HOLD HARMLESS, PROVISION OF DEFENSE

1. The Association shall indemnify, hold harmless and provide a defense to 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 (other than an action by or in the right of the Association) by reason of the fact that he/she is or was a director, employee, officer or agent of the Association, against expenses (including, without limitation, attorneys' and paralegal fees and court and other costs), judgments, fines and amounts paid in settlement actually and reasonably incurred by him/her in connection with the action, suit or proceeding if he/she acted in good faith and in a manner he/she reasonably believed to be in, or not opposed to, the best interest of the Association; and with respect to any criminal action or

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proceeding, if he/she had no reasonable cause to believe his/her conduct was unlawful; except, the Association shall be relieved of responsibility under this provision in respect to any claim, issue or matter as to which such person shall have been adjudged to be liable for gross negligence or willful misfeasance or malfeasance in the performance of his/her duty to the Association unless and only to the extent that the court in which the action or suit was brought shall determine, upon application, that despite the adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity, to be held harmless and/or to have his/her defense assumed for such expenses which the 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, in and of itself, create a presumption that the person did not act in good faith and in a manner which he/she reasonably believed to be in, or not opposed to, the best interest of the Association; and with respect to any criminal action or proceeding, that he/she had no reasonable cause to believe that his/her conduct was unlawful.

2. Any action under Paragraph 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 or hold harmless or provision of a defense to a director, officer, employee or agent is proper under the circumstances because he/she has met the applicable standard of conduct set forth in Paragraph 1 above. Such determination shall be made first, (a) by the Board by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or second, (b) if such quorum is not obtainable or, even if obtainable, if a quorum of disinterested directors so directs, by independent legal counsel in written opinion, or third, (c) by approval of the members of the Association.

3. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board in the specific case upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he/she is entitled to be indemnified, held harmless or provided a defense by the Association as authorized herein.

4. The rights set forth in Paragraph 1 above shall not be deemed exclusive of any other rights to which those seeking indemnification, hold harmless and/or provision of a defense may be entitled under the laws of the State of Florida, any Bylaw, agree-

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ment, vote of members or otherwise; and as to action taken in an official capacity while holding office, 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, executors and administrators of such a person.

5. 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/her and incurred by him/her in any such capacity, as arising out of his/her status as such, whether or not the Association would have the power to indemnify, hold harmless and/or provide a defense to him/her against such liability under the provisions of this Article.

ARTICLE X. - BYLAWS

The Bylaws shall be adopted by the Board and may be altered, amended or rescinded by the Declarant, the Directors and/or members in the manner provided by the Bylaws.

ARTICLE XI. - AMENDMENTS

1. Amendments to these Articles shall be proposed and adopted in any of the following manners:

A. (1) A majority of the Board shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of the members, which may be the annual or a special meeting;

(2) written notice setting forth the proposed amendment or a summary of the changes to be affected thereby shall be given to each member entitled to vote thereon within the time and in the manner provided in the Bylaws for the giving of notice of a meeting of the members. If the meeting is an annual meeting, the proposed amendment or such summary may be included in the notice of such annual meeting;

(3) at such meeting, a vote of the members entitled to vote thereon shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving the affirmative vote of a majority of the votes represented at such meeting;

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(4) any number of amendments may be submitted to the members and voted upon by them at any one meeting; or

B. If a majority of the directors, and the members holding a majority of the votes of the Association, sign a written statement manifesting their intention that an amendment to these Articles be adopted, then the amendment shall thereby be adopted as though the above requirements had been satisfied; or

C. Until Declarant has conveyed 100% of the Lots within the Property or as long as Declarant has the right to appoint any director to the Board, these Articles may be amended by resolution adopted by a majority of the Board, without approval of the members.

2. No amendment shall make any changes in the qualifications for membership or in the voting rights of members without approval by all of the members and the joinder of all Institutional Lenders holding mortgages upon the Lots. No amendment shall be made that is in conflict with the Declaration. Until Declarant has conveyed 100% of the Lots within the Property, 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, unless the Declarant shall join in the execution of the amendment, including, but not limited to, any right of the Declarant to appoint directors pursuant to Article VII.

3. Upon the approval of an amendment to these Articles, the articles of amendment shall be executed and delivered to the Department of State as provided by law.

ARTICLE XII. - CONFLICT

In the event of any conflict between the Declaration, these Articles and the Bylaws, the Declaration, these Articles, and the Bylaws, in that order, shall control.

ARTICLE XIII - ACCEPTANCE OF DEDICATION

The Association hereby agrees to accept the dedications to be made to it under that certain plat to be recorded in the Public Records of St. Lucie County which dedication shall include various easements.

ARTICLE XIV. - DISSOLUTION

OR BOOK 1856 PAGE 428

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In the event of dissolution or final liquidation of the Association, the assets, both real and personal, of the Association, shall be dedicated to an appropriate public agency or utility to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Association. In the event that such dedication is refused acceptance, such assets shall granted, conveyed and assigned to any non-profit corporation, association, trust or other organization, to be devoted to purposes as nearly as practicable to the same as those to which they were required to be devoted by the Association. No such disposition of Association properties shall be effective to divest or diminish any right or title of any Member vested in him under the recorded Declaration unless made in accordance with the provisions of such Declaration.

ARTICLE XV. - REGISTERED AGENT AND REGISTERED OFFICE

The initial registered office of the Association shall be at 7000 W. Palmetto Park Rd., Suite 402, Boca Raton, FL 33433, and the initial registered agent of the Association at such address shall be Steven B. Greenfield, Esq..

WHEREFORE, the undersigned incorporator and the initial registered agent have executed these Articles as of the 13th day of March, 2003.

By: PORTOFINO SHORES PROPERTY OWNERS ASSOCIATION, INC.,

Alyson Yellin

Print Name: Alyson Yellin

Title: President

STATE OF FLORIDA)
Broward SS:
COUNTY OF ~~PALM BEACH~~)

The foregoing instrument was acknowledged before me this 13th day of March, 2003, by Alyson Yellin, on behalf of the corporation, as Incorporator of PORTOFINO SHORES PROPERTY OWNERS ASSOCIATION, INC., a Florida corporation not for

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SECRETARY OF STATE
TALLAHASSEE FLORIDA

profit. He/She is personally known to me or produced _____ as identification, and did not take an oath.

Marie B. Chandler
Print Name: Marie B. Chandler

My commission expires:
Marie B. Chandler
Commission #DD175669
Expires: Jan 06, 2007
Bonded Thru
Atlantic Bonding Co., Inc.

CERTIFICATE OF DESIGNATION
REGISTERED AGENT/REGISTERED OFFICE

Pursuant to the provisions of section 617.0501, Florida Statutes, the undersigned corporation, organized under the laws of the state of Florida, submits the following statement in designating the registered office/registered agent, in the state of Florida.

1. The name of the corporation is: **PORTOFINO SHORES PROPERTY OWNERS ASSOCIATION, INC** a Florida corporation not for profit

2. The name and address of the registered agent and office is:

Steven B. Greenfield, Esq. , 7000 W. Palmetto Park Rd., Suite 402, Boca Raton, FL 33433

Signature: Alyson Yellin

Print Name: Alyson Yellin

Title: President

Date: 3/13/03

HAVING BEEN NAMED AS REGISTERED AGENT AND TO ACCEPT SERVICE OF PROCESS FOR THE ABOVE STATED CORPORATION AT THE PLACE DESIGNATED IN THIS CERTIFICATE, I HEREBY ACCEPT THE APPOINTMENT AS REGISTERED AGENT AND AGREE TO ACT IN THIS CAPACITY. I FURTHER AGREE TO COMPLY WITH THE PROVISIONS OF ALL STATUTES RELATING TO THE PROPER AND COMPLETE PERFORMANCE OF MY DUTIES, AND I AM FAMILIAR WITH AND ACCEPT THE OBLIGATIONS OF MY POSITION AS REGISTERED AGENT.

Signature:
Steven B. Greenfield
3/13/03

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EXHIBIT "D"

BYLAWS

OF

PORTOFINO SHORES PROPERTY OWNERS' ASSOCIATION, INC.
A Florida Corporation Not For Profit

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1. **GENERAL PROVISIONS.**

1.1 Identity & Powers. These are the Bylaws, as they may be amended from time to time **("Bylaws")**, of **PORTOFINO SHORES PROPERTY OWNERS' ASSOCIATION, INC** ., a Florida corporation not for profit **("Association")**. The Association has been organized for the purposes stated in the Association's Articles of Incorporation, as they may be amended from time to time **("Articles")**, and shall have all of the powers provided in these Bylaws, the Articles, the Declaration of Covenants and Restrictions For PORTOFINO SHORES to be recorded in the Public Records of St. Lucie County, Florida, as it may be amended from time to time **("Declaration")**, and any statute or law of the State of Florida, and any other power incident to any of the above powers.

1.2 Principal Office. The principal office of the Association shall be at such place as the Board of Directors of the Association **("Board")** may determine from time to time.

1.3 Fiscal Year. The fiscal year of the Association shall be the calendar year.

1.4 Seal. The seal of the Association shall have inscribed upon it the name of the Association, the year of its incorporation and the words "Not For Profit." The seal may be used by causing it, or a facsimile thereof, to be impressed, affixed or otherwise reproduced upon any instrument or document executed in the name of the Association.

1.5 Inspection of Books and Records. The books and records of the Association shall be open to inspection by all members or their authorized agents, upon request, during normal business hours or under other reasonable circumstances. Such records of the Association shall include current copies of the Declaration, Articles and Bylaws (and any amendments thereto), any contracts entered into by the Association, and the books, records and financial statements of the Association.

1.6 Definitions. Unless the context otherwise requires, all capitalized terms used in these Bylaws shall have the same meanings as are attributed to them in the Articles and the Declaration.

2. **MEMBERSHIP IN GENERAL.**

2.1 Qualification. Pursuant to the Articles, all of the record owners of Lots shall be members of the Association.

2.2 Changes in Membership. The transfer of the ownership of any Lot, either voluntarily or by operation of law, shall automatically terminate the membership of the prior owner, and the transferee or new owner shall automatically become a member of the Association. It shall

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be the responsibility of any such transferor and transferee of a Lot to notify the Association of any change in the ownership of any Lot, and the corresponding change in any membership, by delivering to the Association a copy of the recorded deed or other instrument of conveyance which establishes a transfer of ownership. In the absence of such notification, the Association shall not be obligated to recognize any change in membership or ownership of a Lot for purposes of notice, voting, Assessments, or for any other purpose.

2.3 Member Register. The secretary of the Association shall maintain a register in the office of the Association showing the names and addresses of the members of the Association. It shall be the obligation of each member of the Association to advise the secretary of any change of address of the member, or of the change of ownership of the member's Lot, as set forth above. If requested by the Association, a member shall provide the Association with the name and address of any mortgagee holding a mortgage on the member's Lot and/or copies of any such mortgage(s) and/or satisfaction(s) thereof.

3. MEMBERSHIP VOTING.

3.1 Voting Rights. There shall be one vote for each Lot. In the event any Lot is owned by more than one person, or is owned by a person other than an individual, the vote for such Lot shall be cast as set forth below, and votes shall not be divisible. In the event any member owns more than one Lot, the member shall be entitled to one vote for each such Lot.

3.2 Quorum and Voting Requirements; Proxies. Action taken by a majority of the votes present at a meeting at which a quorum is present shall be binding upon all members for all purposes, except where otherwise specifically provided by law, in the Declaration, in the Articles, or in these Bylaws. Unless otherwise so provided, at any regular or special meeting, the presence in person or by proxy of persons entitled to cast the votes for one-third (1/3) of the Lots shall constitute a quorum.

Members may vote in person or by proxy, and proxies may be used to establish a quorum. Any proxy shall be effective only for the specific meeting for which originally given and any lawfully adjourned and reconvened meetings thereof. A proxy is not valid for a period longer than 90 days after the date of the first meeting for which it was given. A proxy is revocable at any time at the pleasure of the member who executes it.

3.3 Determination as to Voting Rights.

3.3.1 In the event any Lot is owned by one person, his right to cast the vote for the Lot shall be established by the record title to his Lot.

3.3.2 In the event any Lot is owned by more than one person or by

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an entity, the vote for the Lot may be cast at any meeting by any co-owner of the Lot provided, however, that in the event a dispute arises between the co-owners as to how the vote for the Lot shall be cast, or in the event the co-owners are unable to concur in their decision upon any subject requiring a vote, they shall lose their right to cast the vote for the Lot on the matter being voted upon at that meeting, but their membership shall be counted for purposes of determining the existence of a quorum. For purposes of this paragraph, the principals or partners of any entity (other than a corporation) owning a Lot shall be deemed co-owners of the Lot, and the directors and officers of a corporation owning a Lot shall be deemed co-owners of the Lot.

3.3.3 Proxies. Every member entitled to vote at a meeting of the members, or to express consent or dissent without a meeting, may authorize another person or persons to act on the member's behalf by a proxy signed by such member or his attorney-in-fact. Any proxy shall be delivered to the secretary of the meeting at or prior to the meeting for which it was given. Any proxy shall be effective only for the specific meeting for which originally given and any lawfully adjourned and reconvened meetings thereof. In no event shall any proxy be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the member executing it. Every proxy shall specifically set forth the name of the person voting by proxy, and the name of the person authorized to vote the proxy for him. Every proxy shall contain the date, time, and place of the meeting for which the proxy is given, and if a limited proxy, shall set forth those items which the proxy holder may vote, and the manner in which the vote is to be cast.

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4. MEMBERSHIP MEETINGS.

4.1 Who May Attend. In the event any Lot is owned by more than one person, all co-owners of the Lot may attend any meeting of the members. In the event any Lot is owned by a corporation, any director or officer of the corporation may attend any meeting of the members. However, the vote for any Lot shall be cast in accordance with the provisions of Section 3 above. Institutional Lenders have the right to attend all members meetings.

4.2 Place. All meetings of the members shall be held at the principal office of the Association or at such other place and at such time as shall be designated by the Board and stated in the notice of meeting.

4.3 Notices. Written notice stating the place, date and hour of any meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given by first-class mail or personal delivery to each member entitled to vote at such meeting not less than 10 nor more than 60 days before the date of the meeting, by or at the direction of the president, the secretary or the officer or persons calling the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at his address as it appears in the records of the Association, with postage thereon pre-paid. For the

purpose of determining members entitled to notice of, or to vote at, any meeting of the members of the Association, or in order to make a determination of the members for any other purpose, the Board shall be entitled to rely upon the member register as same exists ten (10) days prior to the giving of the notice of any meeting, and the Board shall not be required to take into account any changes in membership occurring after that date but may, in their sole and absolute discretion, do so. Notwithstanding the foregoing, if a Lot is owned by more than one person or by an entity, only one notice shall be required to be given with respect to the Lot, which may be given to any co-owner as defined in Paragraph 3.3.2 of these Bylaws. Notice to any member or co-owner shall be sent to the Lot of such member or co-owner, unless the Lot Owner(s) of the Lot otherwise request.

4.4 Waiver of Notice. Whenever any notice is required to be given to any member under the provisions of the Articles or these Bylaws, or as otherwise provided by law, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice. Attendance of a member at a meeting shall constitute a waiver of notice of such meeting, except when the member objects at the beginning of the meeting to the transaction of any business because the meeting was not lawfully called or convened.

4.5 Annual Meeting. The annual meeting for the purpose of electing directors and transacting any other business shall be held once each year at such time and place as shall be determined by the Board and as is contained in the notice of such meeting. However, so long as Declarant is entitled to appoint a majority of the directors of the Association, no annual meetings will be required.

4.6 Special Meetings. Special meetings of the members may be called at any time by any director, the president, or at the request, in writing, by not less than 25% of the members, or as otherwise provided by law. Such request shall state the purpose of the proposed meeting. Business transacted at all special meetings shall be confined to the subjects stated in the notice of meeting. Notice of any special meeting shall be given by the secretary, or other officer of the Association, to all of the members within sixty (60) days after same is duly called, and the special meeting shall be held not less than ten (10) days nor more than sixty (60) days after notice is given, as set forth in Paragraph 4.3 of these Bylaws.

4.7 Adjournments. Any meeting may be adjourned or continued by a majority vote of the members present in person or by proxy and entitled to vote, or if no member entitled to vote is present, then any officer of the Association may adjourn the meeting from time to time. If any meeting is adjourned or continued to another time or place, it shall not be necessary to give any notice of the adjourned meeting, if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken, and any business may be transacted at the adjourned meeting that might have been transacted at the original meeting. If the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken, notice of the adjourned meeting may be given to members not present at the

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original meeting, without giving notice to the members who were present at such meeting.

4.8 Organization. At each meeting of the members, the president, the vice president, or any person chosen by a majority of the members present, in that order, may act as chairman of the meeting. The secretary, or in his absence or inability to act, any person appointed by the chairman of the meeting, shall act as secretary of the meeting.

4.9 Order of Business. The order of business at the annual meetings of the members shall be:

4.9.1 Determination of chairman of the meeting:

4.9.2 Calling of the role and certifying of proxies;

4.9.3 Proof of notice of meeting or waiver of notice;

4.9.4 Reading and disposal of any unapproved minutes:

4.9.5 Election of inspectors of election;

4.9.6 Determination of number of directors to be elected;

4.9.7 Election of directors;

4.9.8 Reports of directors, officers and/or committees;

4.9.9 Unfinished business;

4.9.10 New business; and

4.9.11 Adjournment.

4.10 Minutes. The minutes of all meetings of the members shall be kept in a book available for inspection by the members or their authorized agents, and the directors, at any reasonable time. The Association shall retain these minutes for a period of not less than seven years.

4.11 Actions Without a Meeting. Any action required or permitted to be taken at any annual or special meeting of the members of the Association, may be taken without a meeting, without prior notice, and without a vote, if a consent in writing, setting forth the action so taken, shall be signed by the members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all members entitled to

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vote thereon were present and voted. Within ten (10) days after obtaining such authorization by written consent, notice shall be given to those members who have not consented in writing. The notice shall fairly summarize the material features of the authorized action. If a Lot is owned by more than one person or by a corporation, the consent for such Lot need only be signed by one person who would be entitled to cast the vote for the Lot as a co-owner pursuant to Paragraph 3.3.2 of these Bylaws.

5. DIRECTORS.

5.1 Membership.

5.1.1 The affairs of the Association shall be managed by a Board of not less than three (3) directors. So long as the Declarant is entitled to appoint any director pursuant to the Articles, the number of directors shall be determined, and may be changed from time to time, by the Declarant by written notice to the Board. After the Declarant is no longer entitled to appoint any director, the number of directors may be changed at any meeting where the members are to elect any directors (i) by the then existing Board, if prior to such meeting of the members, the Board votes to change the number of directors and such change is indicated in the notice of the meeting sent to the members, or (ii) by the members at the meeting prior to the election of directors. If the number of directors on the Board is not changed, then the number of directors shall be the same as the number on the Board prior to such meeting (plus any unfilled vacancies created by the death, resignation or removal of a director). In any event there shall always be an odd number of directors.

5.2 Election of Directors by Members. Election of directors to be elected by the members of the Association shall be conducted in the following manner:

5.2.1 Within sixty (60) days after the members other than the Declarant are entitled to elect any directors, as provided in the Articles, or within sixty (60) days after the Declarant notifies the Association that it waives its right to appoint one or more directors, the Association shall call, and give not less than ten (10) days nor more than sixty (60) days notice of, a special meeting of the members to elect any directors the members are then entitled to elect, or to replace the appropriate number of directors previously appointed by the Declarant. Such special meeting may be called and the notice given by any member if the Association fails to do so. At such special meeting, the members shall be required to elect any directors which they are entitled to elect, and if they fail to do so, any directors appointed by Declarant which would have been replaced by any directors elected by the members may resign without further liability or obligation to the Association. In the event such a special meeting is called and held, at the meeting the members may elect not to hold the next annual meeting of the members if such next annual meeting would be less than four (4) months after the date of the special meeting, and upon such election the next annual meeting of the members shall not be held.

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5.2.2 Except as provided above, the members shall elect directors at the annual members' meetings.

5.2.3 Prior to any special or annual meeting at which directors are to be elected by the members, the existing Board may nominate a committee, which committee may nominate one person for each director to be elected by the members, on the basis that the number of directors to serve on the Board will not be altered by the members at the members meeting. Nominations for additional directorships created at the meeting shall be made from the floor, and other nominations may be made from the floor.

5.2.4 The election of directors by the members shall be by ballot cast in person or by proxy, and by a plurality of the votes cast, each member voting being entitled to cast his votes for each of as many nominees as there are vacancies to be filled. There shall be no cumulative voting.

5.3 Term of Office. All directors elected by the members shall hold office until the next annual meeting of the members and until their successors are duly elected, or until such director's death, resignation or removal, as hereinafter provided or as otherwise provided by statute or by the Articles.

5.4 Organizational Meeting. The newly elected Board shall meet for the purposes of organization, the election of officers and the transaction of other business immediately after their election or within ten (10) days of same at such place and time as shall be fixed by the directors at the meeting at which they were elected, and no further notice of the organizational meeting shall be necessary, unless otherwise required by law.

5.5 Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the directors.

5.6 Special Meetings. Special meetings of the Board may be called by any director, or by the president, at any time.

5.7 Notice of Meetings. Notice of each meeting of the Board shall be given by the secretary, or by any other officer or director, which notice shall state the date, place and hour of the meeting. Notice of such meeting shall be delivered to each director in the same manner(s) as notice is to be delivered to non-director members, as described in the following paragraph. Notice of a meeting of the Board need not be given to any director who signs a waiver of notice either before or after the meeting. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting and a waiver of any and all objections to the place of the meeting, the time of the meeting, or the manner in which it has been called or convened, except when a director states, at the beginning of the meeting, an objection to the transaction of any business because the meeting is not

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lawfully called or convened. Unless otherwise required herein or by law, neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board need be specified in any notice or waiver of notice of such meeting.

Meetings of the Board shall 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. Notice to members of a Board meeting shall be made in any one or more of the following manners, except in an emergency: (a) by posting in a conspicuous place in the community at least 48 hours in advance, (b) by mailing or delivering notice to each member at least 7 days before the meeting, (c) by publishing notice at least 48 hours in advance, (d) by providing an annual or other schedule of Board meetings at least 7 days prior to the next scheduled meeting, or (e) by any other reasonable alternative determined by the Board. Notice of any meeting in which assessments against Lots are to be established shall specifically contain a statement that assessments shall be considered and a statement of the nature of such assessments.

5.8 Quorum and Manner of Acting. A majority of the directors determined in the manner provided in these Bylaws shall constitute a quorum for the transaction of any business at a meeting of the Board. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board, unless the act of a greater number of directors is required by statute, the Declaration, the Articles, or by these Bylaws. A director may join by written concurrence in any action taken at a meeting of the Board but such concurrence may not be used for the purposes of creating a quorum.

5.9 Adjourned Meetings. A majority of the directors present at a meeting, whether or not a quorum exists, may adjourn any meeting of the Board to another place and time. Notice of any such adjourned meeting shall be given to the directors who are not present at the time of the adjournment, and, unless the time and place of the adjourned meeting are announced at the time of the adjournment, to the other directors. At any adjourned meeting, any business that might have been transacted at the meeting as originally called may be transacted without further notice.

5.10 Presiding Officer. The presiding officer of the Board meetings shall be the chairman of the Board if such an officer is elected; and if none, the president of the Association shall preside. In the absence of the presiding officer, the directors shall designate one of their members to preside.

5.11 Order of Business. The order of business at a Board meeting shall be:

5.11.1 Calling of role;

5.11.2 Proof of notice of meeting or waiver of notice;

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5.11.3 Reading and disposal of any unapproved minutes;

5.11.4 Reports of directors, officers and/or committees;

5.11.5 Election of officers;

5.11.6 Unfinished business;

5.11.7 New business: and

5.11.8 Adjournment.

5.12 Minutes of Meetings. The minutes of all meetings of the Board shall be kept in a book available for inspection by the members of the Association, or their authorized agents, and the directors at any reasonable time. The Association shall retain these minutes for a period of not less than seven (7) years.

5.13 Committees. The Board may, by resolution duly adopted, appoint committees. Any committee shall have and may exercise such powers, duties and functions as may be determined by the Board from time to time, which may include any powers which may be exercised by the Board and which are not prohibited by law from being exercised by a committee.

5.14 Resignation. Any director may resign at any time by giving written notice of his resignation to another director or officer. Any such resignation shall take effect at the time specified therein or, if the time when such resignation is to become effective is not specified therein, immediately upon its receipt, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

5.15 Removal of Directors. Directors may be removed as follows:

5.15.1 Any director other than a director appointed by the Declarant may be removed by majority vote of the remaining directors, if such director (a) has been absent for the last three consecutive Board meetings and/or adjournments and continuances of such meetings; or (b) has been absent for three Board meetings during the preceding twelve months; or (c) is an Owner and has been delinquent for more than thirty (30) days after written notice in the payment of Assessments or other moneys owed to the Association.

5.15.2 Any director other than a director appointed by the Declarant may be removed with or without cause by the vote of a majority of the members of the Association at a special meeting of the members called by not less than twenty-five (25%) percent of the members of the Association expressly for that purpose. The vacancy on the Board caused by any such removal may be filled by the members at such meeting or, if the members shall fail to fill such

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vacancy, by the Board, as in the case of any other vacancy on the Board.

5.16 Vacancies.

5.16.1 Vacancies in the Board may be filled by a majority vote of the directors then in office, though less than a quorum, or by a sole remaining director, and a director so chosen shall hold office until the next annual election and until his successor is duly elected, unless sooner displaced. If there are no directors, then a special election of the members shall be called to elect the directors. Notwithstanding anything contained herein to the contrary, the Declarant, until it has conveyed 100% of the Lots within the Property or waived such right, shall have the right to appoint all directors permitted by the Articles, and any vacancies on the Board may be filled by the Declarant to the extent that the number of directors then serving on the Board which were appointed by the Declarant is less than the number of directors the Declarant is then entitled to appoint.

5.16.2 In the event the Association fails to fill vacancies on the Board sufficient to constitute a quorum in accordance with these Bylaws, any Lot Owner may apply to the Circuit Court of the County in which the Property is located for the appointment of a receiver to manage the affairs of the Association. At least thirty (30) days prior to applying to the Circuit Court, the Lot Owner shall mail to the Association a notice describing the intended action giving the Association the opportunity to fill the vacancies. If during such time the Association fails to fill the vacancies, the Lot Owner may proceed with the petition. If a receiver is appointed, the Association shall be responsible for the salary of the receiver, court costs, and attorneys' fees. The receiver shall have all powers and duties of a duly constituted member of the Board, and shall serve until the Association fills vacancies on the Board sufficient to constitute a quorum.

5.17 Directors Appointed by the Declarant. Notwithstanding anything contained herein to the contrary, the Declarant shall have the right to appoint all directors in accordance with the privileges granted to the Declarant pursuant to the Articles. All directors appointed by the Declarant shall serve at the pleasure of the Declarant, and the Declarant shall have the absolute right, at any time, and in its sole discretion, to remove any director appointed by it, and to replace such director with another person to serve on the Board. Replacement of any director appointed by the Declarant shall be made by written instrument delivered to any officer or any other director, which instrument shall specify the name of the person designated as successor director. The removal of any director and the designation of his successor by the Declarant shall become effective immediately upon delivery of such written instrument by the Declarant.

5.18 Compensation. The Directors shall not be entitled to any compensation for serving as Directors unless the members approve such compensation, provided however, the Association may reimburse any Director for expenses incurred on behalf of the Association without approval of the members.

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5.19 Powers and Duties. The directors shall have the right to exercise (and to delegate the exercise of) all of the powers and duties of the Association, express or implied, existing under these Bylaws, the Articles, the Declaration, or as otherwise provided by statute or law.

6. OFFICERS.

6.1 Members and Qualifications. The officers of the Association shall include a president, a vice president, a treasurer and a secretary, all of whom shall be elected by the directors and may be removed from office at any time with or without cause by the directors. Any person may hold two or more offices except that the president shall not also be the secretary. The Board may, from time to time, elect such other officers and designate their powers and duties as the Board shall find to be appropriate to manage the affairs of the Association from time to time. Each officer shall hold office until the meeting of the Board following the next annual meeting of the members, or until his successor shall have been duly elected and shall have qualified, or until his death, or until he shall have resigned, or until he shall have been removed, as provided in these Bylaws.

6.2 Resignations. Any officer may resign at any time by giving written notice of his resignation to any director or officer. Any such resignation shall take effect at the time specified therein, or if there is no time specified therein, immediately upon its receipt; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make such resignation effective.

6.3 Vacancies. A vacancy in any office, whether arising from death, resignation, removal or any other cause may be filled for the unexpired portion of the term of the office which shall be vacant in the manner prescribed in these Bylaws for the regular election or appointment of such office.

6.4 The President. The president shall be the chief executive officer of the Association. He shall have all of the powers and duties which are usually vested in the office of president of an association or corporation including, but not limited to, the power to appoint committees from among the members from time to time, as he may in his discretion deem appropriate to assist in the conduct of the affairs of the Association.

6.5 The Vice President. The vice president shall, in the absence or disability of the president, exercise the powers and perform the duties of the president. He shall also assist the president generally and exercise such other powers and perform such other duties as may be prescribed by the directors.

6.6 The Secretary. The secretary shall prepare and keep the minutes of all

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proceedings of the directors and the members. He shall have custody of the seal of the Association and affix the same to instruments requiring a seal when duly executed. He shall perform all other duties incident to the office of secretary of an association, and as may be required by the directors or the president.

6.7 The Treasurer. The treasurer shall have custody of all property of the Association, including funds, securities, and evidences of indebtedness. He shall keep books of account for the Association in accordance with good accounting practices, which, together with substantiating papers, shall be made available to the Board for examination at reasonable times. He shall submit a Treasurer's Report to the Board whenever requested and shall perform all other duties incident to the office of treasurer. He shall collect all Assessments and shall report to the Board the status of collections as requested.

6.8 Compensation. The officers shall not be entitled to compensation unless the Board specifically votes to compensate them. However, neither this provision, nor the provision that directors will not be compensated unless otherwise determined by the members, shall preclude the Board from employing a director or an officer as an employee of the Association and compensating such employee, nor shall they preclude the Association from contracting with a director for the management of property subject to the jurisdiction of the Association, or for the provision of services to the Association, and in either such event to pay such director a reasonable fee for such management or provision of services.

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7. FINANCES AND ASSESSMENTS.

7.1 Assessment Roll. The Association shall maintain an Assessment roll for each Lot, designating the name and current mailing address of the Owner, the amount of each Assessment against such Owner, the dates and amounts in which the Assessments come due, the amounts paid upon the account of the Owner, and the balance due.

7.2 Depositories. The funds of the Association shall be deposited in such banks and depositories as may be determined and approved by appropriate resolutions of the Board from time to time. Funds shall be withdrawn only upon checks and demands for money signed by such officer(s), director(s) or other person(s) as may be designated by the Board.

7.3 Application of Payments and Commingling of Funds. All sums collected by the Association from Assessments may be commingled in a single fund or divided into more than one fund, as determined by the Board.

7.4 Accounting Records and Reports. The Association shall maintain accounting records according to good accounting practices. The records shall be open to inspection by Owners or their authorized agents, at reasonable times. The records shall include, but not be

limited to, (a) a record of all receipts and expenditures, and (b) the Assessment roll of the members referred to above. The Board may, and upon the vote of a majority of the members shall, conduct a review of the accounts of the Association by a certified public accountant, and if such a review is made, a copy of the report shall be furnished or made available to each member, or their authorized agent, within fifteen (15) days after same is completed.

7.5 Reserves. The budget of the Association may provide for a reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Property and those other portions of the Property which the Association is obligated to maintain.

8. **PARLIAMENTARY RULES.**

8.1 Roberts' Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the Declaration, the Articles or these Bylaws.

9. **AMENDMENTS.** Except as otherwise provided, these Bylaws may be amended in the following manner:

9.1 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered.

9.2 Initiation. A resolution to amend these Bylaws may be proposed either by any director, or by or at the direction of ten (10%) percent or more of the members of the Association.

9.3 Adoption of Amendments.

9.3.1 A resolution for the adoption of the proposed amendment shall be adopted either: (a) by unanimous vote of all of the directors; or (b) by not less than a majority of the votes of the entire membership of the Association. Any amendment approved by the members may provide that the Board may not further amend, modify or repeal such amendment.

9.3.2 Notwithstanding anything contained herein to the contrary, so long as the Declarant is entitled to appoint a majority of the directors, the Declarant shall have the right to unilaterally amend these Bylaws without the joinder or approval of the Board or any member, and so long as the Declarant owns any Lot, no amendment to these Bylaws shall be effective without the written approval of the Declarant.

9.4 No amendment shall make any changes in the qualification for

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membership or in the voting rights of members without approval by all of the members and the joinder of all record owners of mortgages upon the Lots. No amendment shall be made that is in conflict with the Declaration or the Articles. Prior to the closing of the sale of all Lots by Declarant, 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, unless the Declarant shall join in the execution of the amendment, including, but not limited to, the right of the Declarant to appoint directors.

9.5 No amendment to these Bylaws shall be made which discriminates against any Owner(s), or affects less than all of the Owners without the written approval of all of the Owners so discriminated against or affected.

9.6 Execution and Recording. No amendment to these Bylaws shall be valid until it is signed by the Secretary and recorded in the public records of the county in which the Property is located.

10. **MISCELLANEOUS.**

10.1 Genders and Tenses. The use of any gender or of any tense in these Bylaws shall refer to all genders or to all tenses, wherever the context so requires.

10.2 Partial Invalidity. Should any provision hereof be void or become unenforceable at law or in equity, the remaining provisions shall, nevertheless, be and remain in full force and effect.

10.3 Conflicts. In the event of any conflict, the Declaration, the Articles, and these Bylaws, shall govern, in that order.

10.4 Captions. Captions are inserted herein only as a matter of convenience and for reference, and are not intended to and shall not define, limit or describe the scope of these Bylaws or the intent of any provision hereof.

10.5 Waiver of Objections. The failure of the Board or any officer(s) of the Association to comply with any term or provision of the Declaration, the Articles, or these Bylaws which relates to a time limitation shall not, in and of itself, invalidate the act done or performed. Any such failure shall be waived if it is not objected to by a member of the Association within ten (10) days after the member is notified, or becomes aware or should have reasonably become aware, of the failure. Furthermore, if such failure occurs at a general or special meeting, the failure shall be waived as to all members who received notice of the meeting or appeared and failed to object to such failure at the meeting.

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11. **CERTIFICATION**. I, the undersigned, do hereby certify:

11.1 That I am the duly elected and acting Secretary of Hawks Landing Property Owners' Association, Inc., a Florida corporation not for profit; and

11.2 That the foregoing Bylaws constitute the original Bylaws of said Association, as duly adopted at a meeting of the Board of Directors thereof held as of the 12th day of November, 2003.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association as of the 12th day of November, 2003.

Marie Chandler

Secretary

STATE OF FLORIDA)
) BROWARD
COUNTY OF ~~PALM BEACH~~)

The foregoing instrument was acknowledged before me this 12th day of November 2003, by Marie Chandler as Secretary of **PORTOFINO SHORES PROPERTY OWNERS' ASSOCIATION, INC.**, a Florida corporation not for profit, on behalf of the corporation. She is personally known to me or has produced _____ as identification.

Notary Public - Signature

[Seal]

LORRAINE VANELLA
MY COMMISSION # DD 067857
EXPIRES: January 19, 2006
Bonded Thru Notary Public Underwriters

Print Name **LORRAINE VANELLA**

COPY

DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR PORTOFINO SHORES

Exhibit "E"

Architectural Control Board ("ACB") Rules and Regulations

1. WINDOWS, DOORS, SCREENED PORCHES AND PATIOS

   1. Bright-finished or bright plated metal exterior doors, windows, window screens, louvers, exterior trim or structural members shall not be permitted.

   2. All screening and screen enclosures shall be constructed utilizing anodized or electrostatic plated aluminum of approved color.

   3. The use of reflective tinting or mirror finishes on windows is prohibited.

   4. Security bars on windows or doors must be approved by the ACB.

2. SOLAR PANELS

   Solar water heating panels shall be reviewed on an individual basis, and if approved by the ACB, must be coordinated with the roof color so as to present the least obtrusive condition.

3. EXTERIOR MATERIALS AND COLORS

   1. Exterior artificial, simulated or imitation materials shall not be permitted without the approval of the ACB.

   2. The use of the following items are appropriate:

      1. Stucco - Similar in finish and color as originally constructed.
      2. Metals - Factory finished in durable anodized or electrostatic plated aluminum in white or other approved color.

   3. Exterior colors that, in the opinion of the ACB, would be inharmonious, discordant and/or incongruous to Portofino Shores shall not be permitted. Bright colors (other than white) as the dominant colors are prohibited. No change in color or shall be permitted without the approval of the ACB.

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4. ROOFS

1. Roof colors shall be an integral part of the exterior color scheme of the building.

2. No change in color or existing roofing material shall be permitted without the approval of the ACB.

3. Roofs shall be cement tile or approved equal.

5. GARAGE, DRIVEWAYS, WALKWAYS AND EXTERIOR LIGHTING

1. Driveways. All dwellings shall have a paved driveway of stable and permanent construction of at least sixteen (16) feet in width. Driveways shall be constructed of concrete pavers or a comparable material approved by the ACB.

2. No asphalt driveways will be permitted.

3. Any change from the existing garage door must be approved by the ACB.

4. All proposed exterior lighting shall be detailed on the request for architectural modification. No exterior lighting shall be permitted which, in the opinion of the ACB, would create a nuisance to the adjoining property owners.

6. AWNINGS, SHUTTERS, FENCES AND WALLS

1. Awnings and canopies shall not be permitted or affixed to the exterior of the residence. Shutters must be in a color to match the trim of the home and approved by the ACB.

2. Permanent storm shutters may be either of the following:

   1. Accordion type colored to match the body paint of the building (or other approved color).
   2. Roll up type consisting of a roll box and slats colored to match the body paint of the building (or other approved color; positioned immediately above the window or door.

3. Temporary storm shutters shall not be stored on the exterior of the residence. All permanent tracks or fixtures shall match the color of the body paint of the building (or other approved color). Temporary storm shutters may be installed only during official broadcast storm warnings and removed within a reasonable period of time.

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4. All proposed fences or privacy fences must be approved by the ACB prior to installation. No pressure treated fences are permitted. Fences shall be either white or aluminum, or a different color as approved by the ACB.

5. Walls that are an integral part of the residential design may be used.

6. Fencing of the front yard areas is not permitted.

7. Water softeners, trash containers and other similar utilitarian devices must be fenced, walled or landscaped provided they do not extend into the setback and they are properly screened from view in a manner approved by the ACB.

7. LANDSCAPING

1. All landscaping shall be completed according to the Declarant's Landscaping Plan. Any changes to the approved plan will be subject to the approval of the ACB.

8. AIR CONDITIONERS, GARBAGE AND TRASH CONTAINERS

1. Window and/or wall air conditioning units shall not be visible form the street and shall be approved, in writing, by the adjacent unit owner in addition to the ACB.

2. All garbage and trash containers shall be placed in an enclosed or landscaped area as approved by the ACB.

9. ANTENNAS, FLAGPOLES AND SIGNS

a. No outside antennas, antenna poles, antenna masts, antenna towers, satellite dishes, flagpoles or electronic devises shall be permitted unless the design, location and shielding are first approved by the ACB, which approval shall require appropriate landscaping or other screening, except in the case of flagpoles. Only one (1) flagpole (for display of the American flag only) per lot shall be permitted and an approved flagpole shall not be used as an antenna unless first approved by the ACB. None of the above mentioned facilities shall exceed a height of thirty-five (35) feet above ground level or the height of any building or dwelling, whichever is less.

b. All signs, billboards, and advertising structures are prohibited on any lot except with the written permission of the ACB. The ACB shall determine size, color, content and location of any sign. No sign shall be nailed or attached to a tree.

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10. SWIMMING POOLS, TENNIS COURTS, ACCESSORY STRUCTURES, PLAY EQUIPMENT, AND DECORATIVE OBJECTS

1. Swimming pools shall only be permitted where approved by the County of St. Lucie and the ACB. Pool screening, fencing and decks must be within the zoning prescribed set-back.

2. Accessory structures, such as basketball hoops, playhouses, tool sheds or doghouses may be permitted but must receive specific written approval of the ACB before installation.

3. All playground equipment shall be placed to the rear of the residence and only with the approval of the ACB.

4. No decorative objects such as sculptures, birdbaths, fountains, and similar items shall be placed or installed on the street side of any lot without approval of the ACB.

5. Clotheslines shall not be permitted on lots, unless approved by the ACB.

11. PATIO ENCLOSURES

1. Patio enclosures are an extension of the home and have a significant impact on its appearance. All enclosures should be designed to conform to the contours of the house. Color and material should be compatible with the home. All patio enclosures must have ACB approval prior to the commencement of construction.

12. MAJOR EXTERIOR ALTERATIONS

1. The design of major alterations should be compatible in scale, materials, and color with the Owner's house and adjacent houses.

2. The location of major alterations should not impair the views or amount of sunlight and natural ventilation on adjacent properties.

3. Pitched roofs should match the slope of the roof on the applicant's house.

4. New windows and doors should match the type used in the Owner's house and should be located in a manner which will relate well with the location of exterior openings in the existing house.

5. If changes in grade or other conditions which will affect drainage are anticipated, they must be indicated. Generally, approval will be denied if adjoining properties are adversely affected by changes in drainage.

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6. Construction materials should be stored so that impairment of views from neighboring properties is minimized. Excess material and debris should be immediately removed after completion of construction.

7. Gutters and downspouts must match the trim on the house and be as inconspicuous as possible. Run-off must not adversely affect the drainage on adjacent property. All gutters and downspouts must have the approval of the ACB prior to installation.

8. No major alteration should be started without the approval of the ACB.

13. PARKING

a. On-street parking is prohibited between the hours of 12:00 A.M. and 6:00 A.M.

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