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OR BK 11046 PG 1189  
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RICHARD AKE CLERK OF COURT  
HILLSBOROUGH COUNTY  
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**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS  
AND EASEMENTS FOR  
WILLOW STREET PROPERTIES**

This Declaration of Covenants, Conditions, Restrictions And Easements For Willow Street Properties ("Declaration") is made this 28<sup>th</sup> day of August, 2001, by WILLOW STREET PROPERTIES, LLC, a Florida limited liability company (the "Declarant").

**PROPERTY SUBMITTED**

Declarant is the owner of certain real property situated in Hillsborough County, Florida, more fully described in Exhibit "A", attached hereto (hereinafter the "Property"). Declarant hereby declares that the Property is and shall be held, transferred, sold, conveyed, used and occupied in accordance with and subject to the covenants, conditions, restrictions and easements contained in this Declaration. The covenants, conditions, restrictions and easements set forth in this Declaration shall bind, and the benefits thereof shall inure to, any and all persons and entities having any right, title or interest in the Property or any part thereof, their representatives, agents, heirs, personal representatives, successors and assigns. Willow Street Properties Homeowners Association, Inc., does hereby join and consent to this Declaration pursuant to the Joinder and Consent more fully set forth in Exhibit "B" attached hereto and hereby declares that any portion of the Property owned by said association is and shall be subject to the covenants, conditions,

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restrictions and easements contained in this Declaration.  
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ARTICLE 1.  
DEFINITIONS

Each of the following terms shall have the meaning ascribed thereto whenever used in this Declaration:

**SECTION 1.1** "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of the Association, as they may be amended from time to time. A true and correct copy of the Articles of Incorporation is attached hereto as Exhibit "C" and incorporated herein by reference.

**SECTION 1.2** "Association" shall mean and refer to Willow Street Properties Homeowners Association, Inc., a Florida not-for-profit corporation, its successors and assigns.

**SECTION 1.3** "Board of Directors" shall mean and refer to the Board of Directors of the Association.

**SECTION 1.4** "Bylaws" shall mean and refer to the Bylaws of the Association, as they may be amended from time to time. A true and correct copy of the Bylaws is attached hereto as Exhibit "D" and incorporated herein by reference.

**SECTION 1.5** "Common Area" or "Common Areas" shall mean and refer to any and all real property owned or leased by, or dedicated to, the Association for the common use and enjoyment of the Owners, including, but not limited to portions of the Property not within Lots or streets which are used for the surface water management system as permitted by the Southwest Florida Water Management District, including, but not limited to, all lakes, retention areas, and related appurtenances, and pipes, culverts, and drainage facilities which are used as part of the

common drainage system and which are not owned by a governmental agency.

**SECTION 1.6** "Declarant" shall mean and refer to **WILLOW STREET PROPERTIES, LLC**, a Florida limited liability company, as it assigns its rights as Declarant hereunder by written instrument recorded in the public records of Hillsborough County, Florida.

**SECTION 1.7** "Declaration" shall mean this Declaration of Covenants, Conditions, Restrictions and Easements of Willow Street Properties as it may be amended from time to time.

**SECTION 1.8** "Institutional Mortgagee" shall mean and refer to any lending institution that has a lien upon a Lot by virtue of its owning and holding a mortgage given by the Owner of the Lot, including any of the following institutions: an insurance company or subsidiary thereof, a federal or state savings and loan association, a federal or state bank, a real estate investment trust, an agency of the United States government, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or any mortgage company doing business in the State of Florida, and the Declarant.

**SECTION 1.9** "Lot" shall mean and refer to a plot of land shown and identified upon any site plan of the Property now or hereafter made subject to this Declaration, which is intended for single-family attached residential use.

**SECTION 1.10** "Member" shall mean and refer to: (a) the Declarant for so long as Declarant owns any Lot or other land in the Property and (b) all record Owners of the Lots other than Declarant. When an Owner other than Declarant no longer has ownership of a Lot that Owner's membership in the Association shall terminate. The membership of an Owner other than Declarant in the Association is appurtenant to a Lot and cannot be conveyed other than by conveyance of the fee simple title to the Lot. When any Lot is owned by more than one person

or entity, all such persons or entities shall be Members.

**SECTION 1.11** "Owner" shall collectively mean and refer the fee simple record title holder or holders of a Lot, including Declarant but excluding any person or entity that has any interest in a Lot merely as security for the performance of an obligation.

**SECTION 1.12** "Rules and Regulations" shall mean and refer to any and all rules and regulations for the use and occupancy of the Property established by Declarant prior to Declarant's transfer of control of the Association to the Owners other than Declarant, and thereafter to any and all rules and regulations approved by the Board of Directors of the Association, in accordance with the terms and provisions contained in the Article of this Declaration captioned "RULES AND REGULATIONS".

## ARTICLE 2.

### ANNEXATION AND WITHDRAWAL

**SECTION 2.1** Annexation by Declarant. Declarant hereby reserves the right to annex to the Property additional residential property, roadways, and common areas. Declarant shall have such right until such time as Declarant transfers control of the Association to the other Owners as provided below in the Article captioned "TRANSFER OF CONTROL OF THE ASSOCIATION". Declarant's exercise of such right shall not require the consent of any other person or entity, except for approval, if required, by any applicable governmental entity with jurisdiction over the use and occupancy of the Property. Any additional residential property, roadway areas or common areas, that Declarant may elect to annex into the Property shall be deemed annexed and subject the terms and provisions of this Declaration upon Declarant's execution and recording in the Public Records of Hillsborough County, Florida, of a

Supplementary Declaration effecting such annexation. Such Supplementary Declaration shall refer to this Declaration and shall incorporate by reference all of the covenants, conditions, restrictions and easements contained in this Declaration, thereby subjecting the annexed residential property, roadway areas, or common areas to the covenants, conditions, restrictions and easements of this Declaration as though the annexed properties were fully described herein as a portion of the Property. Any such Supplementary Declaration may contain only additions to or modifications of the covenants, conditions, restrictions and easements contained in this Declaration as may be necessary to reflect the different character, if any, of the annexed properties so long as such additions or modifications are not inconsistent with the general scheme of this Declaration.

**SECTION 2.2      Annexation by Owners.** At any time after Declarant transfers control of the Association to the other Owners, the Owners may annex additional residential property, roadways, and common areas with the vote of two-thirds (2/3) of the Owners present in person or by proxy at a special meeting of the Members called for that purpose and held in accordance with the terms and provisions of the Bylaws, and with the approval of any applicable governmental entity having jurisdiction over the use and occupancy of the Property, if such approval is required.

**SECTION 2.3      Withdrawal by Declarant.** Declarant reserves the right to withdraw any portion of the Property, including, but not limited to, any residential property, roadway areas, and common areas that may be annexed pursuant to this Article, from the covenants, conditions, restrictions and easements of this Declaration. Declarant shall have this right until such time as Declarant transfers control of the Association to the other Owners. Declarant shall exercise Declarant's right of withdrawal by executing and recording in the Public Records of Hillsborough

County, Florida, a Supplementary Declaration effecting such withdrawal; provided, however, that Declarant's right of withdrawal shall not be applicable to any portion of the Property that has been conveyed by Declarant to an owner unless Declarant specifically reserves such right of withdrawal in the owner's Special Warranty Deed or other instrument of conveyance. Declarant's withdrawal of any portion of the Property shall not require the consent of any person or entity, including, but not limited to, any Owner, the Association, or any Mortgagee of the Property.

**SECTION 2.4      Dissolution.** In the event of the dissolution of the Association, other than incident to a merger or consolidation, any Member may petition the Circuit Court in Hillsborough County, Florida to manage the affairs of the dissolved Association in the place and instead of the Association, and to make such provisions as may be necessary for the continued management of the affairs of the dissolved Association.

### **ARTICLE 3.**

#### **PROPERTY RIGHTS**

**SECTION 3.1      Owner's Easement of Enjoyment.** Every Owner shall have a right and easement of enjoyment in and to the Common Areas. Such right and easement shall not include any right or easement of access across any Lot to the Common Areas. Such right and easement shall be appurtenant to, and shall pass with, the title to every Lot or authorized right to occupy any Lot, subject to the following:

- (a) The Association's right to suspend an Owner's voting rights for any period during which any assessment against the Owner's Lot remains unpaid;
- (b) The Association's right to suspend an Owner's voting rights for a period not to exceed sixty (60) days for any infraction of the Rules and Regulations;

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(c) The Association's right to dedicate or reserve all or part of the Common Areas to any public agency, authority or utility for such purposes, and subject to such conditions, as may be approved by the Board of Directors.

(d) Any and all Rules and Regulations that govern the use and enjoyment of the Common Areas;

(e) The Association's right to grant permits, licenses and easements over, in, across and under the Common Areas, for such services, utilities, roads, drainage, water retention, and other purposes that are reasonably necessary for the benefit of, and for the proper maintenance or operation of, the Property;

(f) An access easement over, in, across, through and under the Common Areas in favor of Owners and/or the providers of utilities and services to or for the benefit of the Property, and their servicemen and repairmen, for the installation, maintenance, repair and replacement of any such equipment, including, but not limited to, electric, gas, light, telephone, cable television, water, sewage, drainage and waste removal equipment;

(g) An access easement in favor of the Association which is necessary for the Association to keep the Common Areas in a good state of maintenance and repair;

**SECTION 3.2      Delegation of Use.** Any Owner may delegate his right of enjoyment into the Common Areas to the members of Owner's immediate family and to Owner's approved lessee's or contract purchaser so long as any such family member or lessee or contract purchaser resides on the Owner's Lot. Any such delegation with regard to an Owner's lessee or contract purchaser shall not be effective unless the transfer of occupancy of the Owner's Lot is made in accordance with the terms and provisions of this Declaration. For purposes of this Paragraph,

"immediate family" shall include spouses, adult children, parents, parents-in-law, and adult siblings.

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**SECTION 3.3**

**Easement in Favor of Declarant.** Declarant hereby reserves an

easement to enter the Lots, Common Areas on the Property, or any additional residential property, lots, or common areas that may be annexed to the Property, and to maintain such Common Areas and Lots owned by Declarant, and to perform such operations as in Declarant's sole opinion may be reasonably required, convenient or incidental to the construction, sale and lease of the Lots, including, but not limited to, the construction and/or maintenance of Lots, business offices, sales and leasing offices, workshops, maintenance areas, storage areas construction yards, signs, flags, banners and model homes.

**ARTICLE 4.**

**VOTING RIGHTS**

**SECTION 4.1**

**Votes Per Lot.** Each Lot owned by an Owner other than Declarant shall be allocated and entitled to one vote on any Association matter requiring a vote of the Members. Until Declarant transfers control of the Association to the other Owners in the manner provided below:

- (a) each Lot owned by Declarant shall be allocated and entitled to three votes on any such Association matter; and
- (b) in addition, each acre of land owned by Declarant within the Property which is not within a Lot shall be allocated and entitled to twelve votes on any such Association matter.

Upon and after such transfer of control, each Lot owned by Declarant shall be allocated and



entitled to one vote, and Declarant shall not be entitled to any votes for land owned by Declarant within the Property which is not within a Lot. When a Lot or other land is allocated and entitled to a vote, the vote shall be cast by the Member who is the fee simple owner of that Lot or land.

When a Lot is owned by more than one person, the By-laws shall determine how the vote for that Lot is cast. In no event shall more than one vote be cast with respect to any one Lot, except for Lots owned by Declarant that are entitled to three votes.

## **ARTICLE 5.**

### **TRANSFER OF CONTROL OF THE ASSOCIATION**

**SECTION 5.1**      **Declarant's Transfer of Control.** Declarant shall transfer control of the Association to the Owners upon the earliest of the following events:

- (a)      three (3) months after ninety percent of the Lots have been conveyed to Owners other than Declarant and other than builders, contractors, or others who purchase a Lot for the purpose of constructing improvements thereon for resale;
- (b)      December 31, 2002; and
- (c)      Such earlier date as Declarant may, at Declarant's option, elect in writing.

## **ARTICLE 6.**

### **MAINTENANCE**

**SECTION 6.1**      **Common Areas.** The Association shall, at all times and at the Association's expense, maintain the Common Areas in good condition and repair. Such maintenance shall include the maintenance, repair and replacement of all buildings and improvements owned by, or dedicated or leased to, the Association.

**SECTION 6.1.1.**      **Surface Water Management System.** The Association shall, at all

times and at the Association's expense, operate and maintain the surface water management system as permitted by the Southwest Florida Water Management District. Said operation and maintenance shall include the inspection of said system by a Florida registered Professional Engineer to assure that said system is being properly operated and maintained. A written report of the findings of said inspections shall be filed with the Southwest Florida Water Management District as required by said district. The District has the right to take enforcement measures, including a civil action for injunction and/or penalties, against the Association to compel it to correct any outstanding problems with the surface water management system facilities. In the event that the Association ceases to exist, all of the lot owners, parcel owners or unit owners shall be responsible for the operation and maintenance of the surface water management system facilities in accordance with the requirements of the Environment Resource Permit, unless and until an alternate entity assumes responsibility.

**SECTION 6.2      Owner's Maintenance Obligation.** Each Owner is responsible, at the Owner's expense, for the maintenance, repair and replacement of all portions of, and all other improvements constructed on, his Lot. Provided, however, the Association shall be responsible for maintaining the outside surface of any entrance wall or other common subdivision wall, notwithstanding that the wall is located in whole or in part upon one (1) or more Lots.

**SECTION 6.3      Owner's Liability.** In the event any Owner: (a) fails to observe and perform the obligations imposed upon an Owner by the terms and provisions of this Declaration with regard to the maintenance, repair and replacement of his Lot and the improvements thereon or (b) damages or causes any damage to any building, improvements or grounds, the maintenance, repair, replace or reconstruction of which is the responsibility of the Association or (c) makes or

causes to be made any unauthorized improvement, alteration or modification to his Lot or to the Common Areas, which improvements, alterations or modifications are not approved in the manner set forth in this Declaration then, in any such event, the Association shall have the right, after providing ten (10) days' prior written notice, to enter upon the Lot or other affected part of the Property and to cause the necessary repairs, replacements or maintenance to be performed, or to remove any unauthorized improvements, alterations or modification. The Owner of any Lot as to which the Association acts in accordance with this Section shall be responsible for all costs and expenses so incurred by the Association, and the Association shall have the right to add such amounts to the assessments for which such Owner and Lot shall be liable.

#### **ARTICLE 7.**

#### **ASSESSMENTS**

**SECTION 7.1      Owner's Obligation.** There shall be assessed and established assessments, charges, fees and expenses, as more particularly described herein, for the purpose of providing the Association with funds sufficient to maintain, repair and replace those portions of the Property that are the Association's responsibility to maintain, repair and replace. By acceptance of a Warranty Deed or other instrument of conveyance of title to any Lot, each Owner shall be deemed to have covenanted and agreed to pay to the Association the assessments, charges, fees and expenses in the manner described in this Article.

**SECTION 7.2      Purpose of Annual Assessment.** An annual assessment shall be established by the Board of Directors for the purpose of operating the Association and accomplishing any and all of the Association's purposes, obligations and responsibilities with regard to:

(a) the ownership, operation, maintenance, repair and replacement of the Common Areas and any tennis courts or park equipment thereon, walls which are to be maintained by the Association and/or any landscaped, sodded, and irrigated areas in dedicated right-of-ways;

(b) the payment of any and all liens and assessments for public improvements levied or assessed against the Common Areas and equipment or any personal property located thereon and used in connection therewith;

(c) the payment of any and all charges levied or assessed by any person or entity providing utilities or other services to the Common Areas, including, but not limited to, charges for water, electricity, telephone, sewer, waste removal, extermination, landscaping, and for the maintenance, repair and replacement of equipment in connection therewith. Notwithstanding the ability of the Association to assess Owners for the aforementioned charges for utility and other services, it shall be within the Association's discretion whether to assess Owners in the event such charges are billed directly to Owners by the utilities providing said services;

(d) the payment of any and all premiums on any policy of insurance and fidelity bond that may or must be purchased and maintained by the Association in accordance with the terms of this Declaration, including any and all premiums for the renewal of any such policy or bond;

(e) the payment of expenses and costs incurred by the Association in indemnifying and holding harmless Declarant from and against any and all claims, suits, actions, damages, and causes of action, arising from any personal injury, death or property

damage that occurs on the Common Areas, including attorneys' fees, court costs, in either the defense of any such claim or the commencement of any lawsuit for the purpose of enforcing Declarant's rights hereunder, at all trial and appellate court levels;

(f) the payment of any and all ad valorem taxes and personal property taxes assessed against the Common Areas, and the equipment, fixtures and personal property located thereon and used in connection therewith:

(g) the payment of any interest, fees and other charges that are incidental to any of the taxes or assessments enumerated in this Section;

(h) the payment of costs and expenses of the Association for the administration of the Association, including, but not limited to, salaries of secretaries, bookkeepers, accountants and other employees necessary to carry out the obligations of the Association in accordance with the terms and provisions of this Declaration, and for retaining a management company or agent and attorneys for that purpose;

(i) the payment of costs, expenses and fees incurred by the Association in connection with the enforcement of the covenants, conditions, restrictions and easements contained in this Declaration, including, but not limited to, officer and director insurance, a reasonable attorneys' fee and court costs at all trial and appellate levels:

(j) for such other purpose as a majority of the Board of Directors deems necessary and appropriate.

The annual assessment shall include reserves for establishing and maintaining an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Areas.

**SECTION 7.3** **Payment of Annual Assessment.** The annual assessment shall be allocated and assessed equally against all of the Lots. However, notwithstanding anything to the contrary contained herein, until such time as Declarant transfers control of the Association to the other Owners as provided in the Article captioned "TRANSFER OF CONTROL OF THE ASSOCIATION": (a) Declarant shall be excused from payment of assessments (and Lots owned by Declarant shall be exempt from assessments) and (b) Declarant obligates itself to pay any operating expenses incurred that exceed the assessments receivable from other Owners and other income of the Association. The annual assessment allocated to each Lot shall be due and payable in twelve (12) equal monthly assessments on the first day of each month, unless the Board of Directors establishes other due dates.

**SECTION 7.4** **Establishing Annual Assessments.** The initial annual assessment per Lot shall be \$2,700.00, which shall remain in effect until the end of the first fiscal year of the Association. Commencing with the second fiscal year of the Association, the Board of Directors shall prepare an estimated Annual Operating Budget (hereinafter referred to as the "Budget"). The Budget for each fiscal year shall be prepared not less than thirty (30) days prior to the commencement of the fiscal year. Each Budget so prepared by the Board of Directors shall reflect the estimated annual expenses of the Association for the applicable year and shall be subject to the approval of a majority of the Board of Directors present, in person or by proxy, at a meeting of the Board of Directors duly called for that purpose at which a quorum is present. The Board of Directors shall allocate an equal share of the annual expenses reflected in the Budget to each Lot. Upon the adoption of a Budget, the Board of Directors shall, not less than thirty (30) days prior to the succeeding fiscal year, provide written notice to each Owner, informing the Owner of the

amount of the annual assessment to be due. Until such time as Declarant transfers control of the Association to the other Owners as provided in the Article captioned "TRANSFER OF CONTROL OF THE ASSOCIATION", the annual assessment per Lot may not be increased more than 10 per cent per year without the affirmative vote of a majority of the Owner's other than Declarant.

**SECTION 7.5**      **Special Assessments.** In addition to the annual assessment, the Association may levy special assessments for the purposes of defraying the cost of extraordinary items of expense, emergencies or other non-recurring expenses, such as the cost of construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, including fixtures, equipment and personal property placed thereon and related thereto; provided, however, that any such special assessment must be approved by a majority vote of the Board of Directors. Special assessments shall be allocated and assessed equally among the Owners, including Declarant. Special assessments shall be paid within thirty (30) days after notice of such assessment is sent to the Owners, unless otherwise provided in such notice by the Association.

**SECTION 7.6**      **Assessments Ledger.** The Association shall prepare and maintain a ledger containing a listing of all Lots and the assessments attributable to and paid on behalf of each Lot. The Association shall keep such ledger at its office, and shall make it available to any Director or Owner for inspection during reasonable business hours. The Association shall, upon request, furnish a certificate in writing signed by any officer of the Association, certifying whether any assessments are outstanding as of a given date, or whether assessments are paid and current as of a given date. The person to whom such certificate is addressed may rely upon the contents of the certificate, provided that such party is without knowledge of any error as to the information

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set forth in the certificate.

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**SECTION 7.7**

**Non-Payment of Assessments; Liens for Assessments.** Regardless

of how title is acquired, an Owner, including a purchaser at a judicial sale, shall be liable for all assessments coming due while he is the Owner. In a voluntary conveyance, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor, for a share of common expenses or otherwise, up to the time of conveyance, without regard to any right the grantee may have to recover from the grantor the amount paid by the grantee. The liability for assessments may not be avoided by waiver of the use or enjoyment of any Common Areas, or by the abandonment of the Lot against which the assessments are made, or otherwise.

Assessments, and installments thereof, not paid in full within ten (10) days from the date when they are due shall bear interest at the highest lawful rate from the due date until paid. Additionally, the Board of Directors may levy a late fee, the amount of which shall be established from time to time by the Board of Directors, for each month the assessment remains unpaid, beginning with the original due date of any unpaid assessment. Such late charges are not to be considered additional interest on unpaid assessments. The Association shall have and is hereby granted a lien on each Lot for any unpaid assessment on such Lot, with interest and for late charges, reasonable attorneys' fees, at both trial and appellate levels, and costs incurred by the Association incident to the collection of the assessments or enforcement of the lien. The lien is effective from and after the recordation of a claim of lien ("Claim of Lien") in the Public Records of Hillsborough County, stating the description of the Lot, the name of the record Owner, the amounts due and due dates. A Claim of Lien shall be signed and acknowledged by an officer or agent of the Association. The lien is in effect until all sums secured by it have been fully paid



or until barred by law. The person making full payment is entitled to a release of the lien. The Association may bring an action to foreclose a Claim of Lien for unpaid assessments in the same manner as a mortgage of real property is foreclosed, and may also bring an action at law to recover a money judgment for the unpaid assessments without waiving its right under any Claim of Lien. If an Owner shall be in default in the payment of an assessment which is payable in installments, the Board of Directors may accelerate any remaining installments for assessments for the fiscal year, upon notice to the Owner, whereupon the unpaid balance of the assessment due for the remainder of the fiscal year shall become due upon the date stated in the Notice, but not less than fifteen (15) days after the delivery of such notice to the Owner.

**SECTION 7.8      Enforcement of Liens for Assessments and Personal Obligation of Owner.** In the event an Owner fails to pay assessments, in full and when due as provided in this Declaration, the Association may at any time thereafter institute an action to foreclose the lien in favor of the Association against the Owner's Lot, and/or to institute an action at law against the Owner personally obligated to pay such assessment. The Association's acceptance of any subsequent payment of any assessment, in whole or in part, shall not be deemed a waiver of the Association's right to enforce its lien against any Lot or to enforce the Owner's obligation to pay any such assessments as provided in this Declaration.

**SECTION 7.9      Title Acquired Through or in Lieu of Foreclosure.** The lien in favor of the Association for outstanding assessments shall be subordinate to a bona fide first mortgage on any Lot, which mortgage is recorded in the Public Records of Hillsborough County, Florida, prior to the recording of any Claim of Lien against such Lot. A lien in favor of the Association for outstanding assessments shall not be affected by the sale or transfer of any Lot,

except that in the event a first mortgagee obtains title to a Lot as a result of the foreclosure of the mortgage owned and held by such mortgagee or by deed given in lieu of foreclosure, or in the event another person or entity acquires title to the Lot at such a foreclosure sale, any such acquirer of title, and his successors and assigns, shall not be liable for the outstanding assessments pertaining to such Lot or chargeable against the former Owner which became due prior to such acquirer's acquisition of title. In such event the unpaid assessments shall, at the discretion of the Board of Directors, be reallocated and assessed against all Lots, including the Lot acquired through foreclosure or deed in lieu of foreclosure. Any foreclosure sale or transfer made in lieu of foreclosure shall not relieve the acquirer of title from the liability for, nor relieve the Lot so acquired from the lien of, any assessments made after such acquisition of title. Notwithstanding anything contained herein to the contrary, the prior owner of any, Lot sold or transferred pursuant to a foreclosure shall not be released from liability to the Association for any outstanding assessments, or from the enforcement of the prior owner's personal obligation for outstanding assessments by means other than foreclosure of the lien in favor of the Association.

## **ARTICLE 8.**

### **ENFORCEMENT OF DECLARATION**

**SECTION 8.1**      **Right to Enforce.** Declarant, the Association, and any Owner shall have the right, at both law and equity, to enforce the covenants, conditions, restrictions and easements contained in this Declaration. Failure by the Association or by any Owner to enforce any restriction, covenant, easement or condition contained in this Declaration shall in no event be deemed a waiver of the right to do so at any time.

## **ARTICLE 9.**

**SECTION 9.1** ~~Common Areas.~~ The Association shall purchase and maintain a policy of property insurance, naming the Association and Declarant as insureds and covering the Common Areas and any improvements, buildings, fixtures, personal property, and equipment, supplies and materials located on and used in connection with the operation of the Common Areas in an amount not less than the maximum insurable replacement value thereof, excluding land, foundation, excavation and other items normally excluded from such coverage. Such coverage shall afford protection against loss, damage or destruction by fire, and other hazard or casualty as may be covered by a standard extended coverage endorsement, and all other such risks as may be covered with respect to buildings, improvements and other items similar in nature, construction, location or use, including, but not limited to, theft, vandalism, malicious mischief, and windstorm. Any such policy shall provide that it cannot be canceled or substantially modified without at least thirty (30) days' prior written notice to the Association and Declarant.

**SECTION 9.2** **Flood Insurance.** In the event the Property is located within an area that has been designated a special flood zone, as defined by the Federal Emergency Management Agency, the Association shall purchase and maintain a policy of flood insurance, naming the Association and Declarant as insureds, and covering the Common Areas, and any improvements, buildings, fixtures, personal property, equipment, supplies and materials located on and used in connection with the operation of the Property. The Association coverage shall be in an amount not less than the lesser of (a) the maximum coverage available under the National Flood Insurance Program for all buildings and other improvements located on any portion of the Common Areas that falls within a designated special flood zone; and (b) one hundred percent of the current

replacement cost of such improvements, buildings and other insurable property. Any such policy shall provide that it cannot be canceled or substantially modified without at least thirty (30) days' prior written notice to the Association, Declarant, or Owner, whoever the insured is under such policy.

**SECTION 9.3      Liability Insurance.** The Association shall purchase and maintain a policy of comprehensive general liability insurance, naming the Association and Declarant as insureds. The coverage shall be in an amount not less than one million dollars (\$1,000,000) for bodily injury, death and property damage arising out of a single occurrence. Coverage shall include liability of the Association and Declarant for bodily injury, death and property damage. Any such policy shall provide that it cannot be canceled or substantially modified without at least thirty (30) days' prior written notice to the Association and Declarant. An Owner is responsible for purchasing and maintaining a policy of comprehensive general liability insurance providing coverage for his Lot if he desires such coverage.

**SECTION 9.4      Fidelity Insurance.** The Association may purchase and maintain a policy of insurance or fidelity bond, naming the Association as the insured or as the obligee, to protect the Association against the wrongful acts or the omissions of any officer, director, trustee, agent or employee of the Association and all other persons who handle or are responsible for handling funds of, or funds administered by, the Association. Any such policy or bond shall be in an amount determined by the Board of Directors, in their best business judgment, but in no event shall the amount of any such policy or bond be less than fifty percent of the estimated Budget of the Association for the current year during the term of each such policy or bond. Each such policy or bond shall provide that it shall not be canceled or substantially modified without

at least thirty (30) days' prior written notice to the Association.

**SECTION 9.5****Waiver of Rights of Subrogation.**

The Association shall attempt to obtain in all policies that are required to be purchased and maintained, or that may be purchased and maintained pursuant to the terms and provisions of this Declaration, waivers of all the insurer's rights of subrogation as to any claims against any Owner, the Association or Declarant and their respective representatives, agents, family members, invitees, licensees and guests. Each Owner, the Association, and Declarant hereby agree to waive any claim or demand against each other and against other Owners that may exist or arise by virtue of any loss, damage or destruction that is covered by insurance when the insurer has waived its rights of subrogation as provided herein.

**SECTION 9.6****Distribution of Proceeds, Reconstruction of Buildings and**

**Improvements.** The proceeds of any policy of insurance or bond required to be purchased and maintained, or which may be purchased and maintained, pursuant to the terms of this Declaration shall be paid to the Association and Declarant, as their interests may appear, and shall be used as set forth in this Article.

**SECTION 9.6.1.****Proceeds Received by Declarant or Association.**

All proceeds received by the Association and/or Declarant for any loss, damage or destruction of any building, improvement, landscaping, equipment, supplies or materials located on and used in connection with the Common Areas shall be utilized by the Association and/or Declarant to repair, replace or reconstruct any such building, improvement, landscaping, equipment supplies or materials. Any difference between the amount of insurance proceeds received by the Association and/or Declarant and the amount required to complete the repair, replacement or reconstruction shall be

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an expense of the Association for which the Association shall levy a special assessment against all Owners to obtain that difference within forty-five (45) days from the date the loss, damage or destruction occurred. Any repair, replacement or reconstruction that is the responsibility of the Association as provided in this Declaration shall be substantially in accordance with the plans and specifications of the original building or improvement, or as the building or improvement was last repaired or reconstructed, and shall be of similar quality and value in the case of equipment, personal property, landscaping supplies or materials as that previously purchased and maintained by the Association; provided, however, that such repair, replacement or reconstruction shall be modified when necessary to conform with the then current restrictions, ordinance, and codes of any governmental entity that has jurisdiction over the use and occupancy of the Property.

**SECTION 9.7      Declarant Named as Insured.** Whenever the Association is required to purchase and maintain a policy of insurance or bond which shall, according to the terms of this Article, name Declarant as an insured, such obligation to name the Declarant as an insured shall cease upon Declarant's conveyance of title to the last Lot owned by Declarant.

## **ARTICLE 10.**

### **ARCHITECTURAL REVIEW**

**SECTION 10.1      Architectural Review Committee.** There shall be an architectural review committee composed of any three (3) Members of the Board of Directors selected by the Board, or any three (3) or more other persons that may be appointed by the Board of Directors (herein referred to as the "Architectural Review Committee"). The Architectural Review Committee shall consider all plans and specifications submitted to it, and shall either approve or

disapprove such plans and specifications, as provided in this Article.

**SECTION 10.2** Restrictions. No building, outbuilding, garage, fence, wall, screen enclosure, exterior finish, sign, or other structure or improvement of any kind, shall be constructed, erected, built, placed or maintained upon the Property, and no Lot improvements shall be altered, changed, repaired or modified unless the prior written approval of the Architectural Review Committee is obtained by any person or entity who desires to make any such improvement, alteration or modification.

**SECTION 10.3** Submission of Plans and Specifications for Approval. Two sets of plans and specifications for any proposed improvement, alteration or modification shall be submitted to the Architectural Review Committee, which plans and specifications shall include the following:

- (a) Front, side and rear elevations of the improvement, alteration or modification;
- (b) A plot plan indicating and fixing the exact location of the improvement, alteration or modification, with reference to the Lot, the surrounding property, and the streets nearest to the site to be improved, altered or modified;
- (c) Data as to the types of materials to be used in, the proposed improvement, alteration or modification, including the color and texture of all exteriors;
- (d) Graphic depiction of, and narrative describing, the nature, kind, shape, height and location of the proposed improvement, alteration or modification; and
- (e) A description of how the proposed improvement, alteration or modification

**SECTION 10.4      Approval of Plans and Specifications.** The Architectural Review

Committee shall either approve or disapprove any plans and specifications that are submitted to it for its consideration pursuant to this Article. Such approval or disapproval shall be in writing, within thirty (30) days after such plans and specifications have been submitted to the Architectural Review Committee. In the event the Architectural Review Committee fails to approve or disapprove such plans and specifications, in writing within such thirty (30) day period, then the approval of the Architectural Review Committee shall not be required, and the requirements of this Article shall be deemed to have been fully satisfied; provided, however, that all other covenants, conditions, restrictions and easements contained in this Declaration shall remain in full force and effect. In the event the Architectural Review Committee approves any plans and specifications submitted to the Architectural Review Committee for its consideration, then the Architectural Review Committee shall endorse both sets of the plans and specifications submitted pursuant to this Article. Thereafter, one set of endorsed plans and specifications shall be returned to the person or entity who submitted them, and the other set shall remain in the possession of the Architectural Review Committee until the proposed improvement, alteration or modification is completed in full conformance and compliance with the plans and specifications approved by the Architectural Review Committee.

The approval by the Architectural Review Committee of plans and specifications submitted for approval, as herein specified, shall not be deemed to be a waiver by the Architectural Review Committee of the right to object to any of the features or elements embodied in such plans and



specifications if and when the same features and elements are contained in any subsequent plans and specifications submitted for approval for use in connection with another Lot. After such plans and specifications and other data submitted have been approved by the Architectural Review Committee, no building, outbuilding, garage, fence, wall, screen enclosure, exterior finish sign or other structure or improvement of any kind shall be erected, constructed, placed, altered or maintained upon the Property unless the same shall be erected, constructed or altered in conformity with the plans and specifications and plot plans theretofore approved by the Architectural Review Committee.

**SECTION 10.5      Right of Entry and Inspection.** The Architectural Review Committee, any Member thereof, and any of its authorized representatives or agents, shall have the right to enter any portion of the Property that is subject to the jurisdiction of the Architectural Review Committee, including individual Lots, for the purpose of conducting an inspection to ascertain whether the terms and provisions of this Article are being violated.

**SECTION 10.6      Declarant Exempt.** Declarant, all Lots owned by Declarant and all improvements made by Declarant, shall be exempt from the terms and provisions contained in this Article.

## **ARTICLE 11.**

### **AMENDMENT OF DECLARATION**

**SECTION 11.1      Duration and Amendment.** The covenants, conditions, restrictions and easements contained in this Declaration shall run with and bind the Property for a term of twenty-five (25) years from the date on which this Declaration is recorded in the Public Records of Hillsborough County, Florida. Thereafter, the covenants, conditions, restrictions and

easements contained in this Declaration shall be automatically extended for successive periods of ten (10) years unless a majority of the Owners vote not to extend them. This Declaration may be amended by a vote of not less than a majority of the votes of the Owners (including votes Declarant is entitled to cast by virtue of its ownership of Lots or acreage not within Lots); provided, however, that for so long as Declarant, its successors and its assigns, owns one (1) or more Lots, Declarant's prior written consent to any amendment must be obtained. Any amendment to this Declaration enacted in accordance with the terms and provisions of this Article shall be recorded in the Public Records of Hillsborough County, Florida. Declarant shall have the right, at any time within ten (10) years of the date hereof, to amend this Declaration to correct scrivener's errors, and to clarify any ambiguities determined to exist herein. No amendment shall alter the subordination provisions of this Declaration without the prior approval of any Institutional Mortgagee enjoying such protection.

**SECTION 11.2      Surface Water Management System.** Notwithstanding anything to the contrary contained in this Article, any amendment which would affect the surface water management system as permitted by the Southwest Florida Water Management District, including, but not limited to, the water management portions of the Common Areas, must have the prior written approval of the Southwest Florida Water Management District.

## **ARTICLE 12.**

### **CONDEMNATION**

**SECTION 12.1      Allocation of Awards.** In the event any portion of the Property is taken by any governmental authority pursuant to its power of eminent domain, all compensation and damages for such taking shall be allocated among the Owners and the Association, as well

their respective interests may appear. Awards for the taking of the Common Areas shall be used to render the remaining portion of the Common Areas usable in the manner chosen by the Board of Directors of the Association. If the cost of such work shall exceed the balance of the awards made for the taking, the Board shall, in its discretion, determine whether to specially assess the Owners for their proportionate share of the deficiency for the cost of such work. The balance of the awards for the taking of Common Areas, if any, shall be distributed to the Owners in such proportions as their interests in the Property bear to the amount of such compensation and damages. If there is a mortgage on a Lot, the distribution shall be paid jointly to the Owner and the mortgagee of the Lot.

### **ARTICLE 13.**

#### **RIGHT OF ENTRY AND INSPECTION IN FAVOR OF ASSOCIATION**

**SECTION 13.1**      **Right of Entry and Inspection.** The Association, and its authorized agents and representatives, shall have the right to enter upon any portion of the Property, including individual Lots, during reasonable hours, for the purpose of conducting an inspection to ascertain whether the covenants, conditions, restrictions and easements contained in this Declaration are being complied with. In the event any such inspection reveals the existence of a violation of the covenants, conditions, restrictions and easements contained in this Declaration, then the Association, and its authorized agents and representatives, shall have the right to enter upon any portion of the Property, including individual Lots, for the purpose of eliminating any violation at the expense of the person or entity responsible for such violation. Any such entry by the Association, or its authorized agents or representatives, shall be made at reasonable times and upon reasonable notice to the Owner of any such Lot.

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RULES AND REGULATIONS

**SECTION 14.1** Regulation of Uses. Notwithstanding anything to the contrary contained herein, Declarant reserves, until such time as Declarant transfers control of the Association to the Owners, the right to regulate the use of the Property through the establishment and publication, and amendment or rescission, of Rules and Regulations.

**SECTION 14.2** Adoption of Rules and Regulations. After such time as Declarant transfers control of the Association to the Owners, the Board of Directors is authorized to adopt, amend or rescind, at any regular or special meeting of the Board of Directors, Rules and Regulations governing the use and occupancy of the Property and any and all buildings and improvements thereon; provided, however, that such Rules and Regulations shall be for the elaboration and administration of the covenants, conditions, restrictions and easements contained in this Declaration, and shall not be inconsistent with any of the terms or provisions of this Declaration, the Articles of Incorporation or the Bylaws.

**SECTION 14.3** Publication and Distribution of Rules and Regulations. The Association shall publish the Rules and Regulations as may be promulgated, amended or rescinded by Declarant or the Board of Directors pursuant to this Article, and shall mail copies of the Rules and Regulations to all Owners At their last known addresses as shown on the books and records of the Association.

**SECTION 14.4.** Fines. The Board of Directors may establish fines for violating the Rules and Regulations and procedures for levying such fines.

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**ARTICLE 15.**

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**RESTRICTIONS**

**SECTION 15.1      Residential Use.** All Lots shall be used for residential purposes only, except for the construction, development, sales, rental or other activities conducted by Declarant in furtherance of Declarant's business.

**SECTION 15.2      Use of Recreation Vehicles on the Property.** Recreation vehicles, mobile homes, campers, trailers or similar vehicles shall not be used as residence on any part of the Property for any period of time whatsoever.

**SECTION 15.3      Nuisances.** No Owner or other authorized occupant of any Lot shall cause or permit any unreasonable or obnoxious noises or odors to emanate from, or cause or permit any nuisances or immoral or illegal activities upon, his Lot or any part of the Property.

**SECTION 15.4      Animals and Pets.** No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other domesticated household pets may be kept, provided that they are not kept, bred, or maintained for commercial purposes; and provided further that no person owning, or in custody, possession, charge or control of any such animal shall cause, permit or allow the animal to defecate, stray, run or in any manner be at large in or upon any public street or the private property of others without the express consent of the Owner thereof; and provided further that no more than two (2) pets in the aggregate be kept on any Lot. The Board shall have the right to require to be removed from the Lot any pet that causes an unreasonable source of annoyance to any Owner or tenant, or if this provision or any Rules and Regulations promulgated pursuant hereto are violated with respect to the pet.

**SECTION 15.5      Clothes Lines.** Outdoor clothes lines and outdoor clothes drying are

expressly prohibited on any part of the Property.

**SECTION 15.6** Parking. Parking of any motor vehicle shall be prohibited on all roadways or on the lawns and Common Areas. Recreational vehicles, trucks, step vans, boats, trailers, and commercial vehicles must be concealed from view. Vans of a noncommercial type that are used as a primary vehicle for the residents must be parked in the dwelling unit garage.

**SECTION 15.7** Signs. No signs of any kind shall be displayed in public view on any Lot, except such signs deemed necessary by Declarant, its successors and assigns, or its designees, in the construction, development, sale and leasing operations of Declarant, and further except such "For Sale" signs as may be approved in writing by the Architectural Review Committee.

**SECTION 15.8** Antennas, Aerials and Satellite Dishes. The Owners of Lots have a vested interest in maintaining an attractive and pleasing appearance of all Lots within the Property, free from visual clutter. To protect this interest the following restrictions shall apply to antennas, aerials and satellite dishes: (a) no Owner shall place or cause to be placed any antenna, aerial, or satellite dish larger than eighteen (18) inches in diameter upon any part of a Lot; (b) no ham radios or any other radio transmission equipment is permitted or allowed to be placed or operated outside the home on the Lot; and (c) antennas, aerials, or satellite dishes must be located so as to be hidden from view from all other Lots and streets unless such requirement unreasonably increases the cost of installation, operation or maintenance or precludes reception of an acceptable quality, in which case this requirement shall be diminished only to the extent absolutely necessary to allow a reasonable cost and acceptable quality.

**SECTION 15.9** Trade, Business or Profession. No Owner or other authorized

occupant of any Lot may conduct or carry on any trade, business, profession or other type of commercial activity on any Lot or otherwise upon the Property.

**SECTION 15.10** **Subdivision and Partition.** The Lots shall not be subdivided in any fashion or form whatsoever.

**SECTION 15.11** **Litter, Trash and Refuse.** All garbage, trash, refuse or rubbish shall be stored inside the garage of the dwelling unit or the dwelling unit itself, or in an enclosure outside the dwelling unit which enclosure shields the containers from view. No trash, debris or rubbish of any kind shall be allowed to be placed or maintained in any yard, driveway or street in front of a Lot.

**SECTION 15.12** **Swimming Pools.** No above ground swimming pool shall be permitted.

**SECTION 15.13** **Mowing.** The Owner of a Lot shall permit the Association to periodically and from time to time mow the Lot in accordance with the Association's schedule and to pay such charges as the Association may charge for mowing and maintenance of said Lot. No gravel yards shall exist on any Lot.

**SECTION 15.14** **Garage Doors.** All garage doors shall be closed except when in use.

**SECTION 15.15** **Fences.** No fences in excess of six (6) feet in height shall be allowed on any Lot. No chain link fencing shall be allowed. No wall or fence shall be erected in the front yard of any Lot. All fencing shall be of material and style approved by the Architectural Review Committee.

**SECTION 15.16** **Minimum Size.** Each dwelling unit constructed on a Lot shall contain a floor area square footage of not less than 1,000 square feet under the roof, exclusive of

garages or porches (open or screened). Each dwelling unit constructed on a Lot shall contain a minimum of a one-car garage which shall be attached to the main dwelling unit. Carports shall not be permitted.

**SECTION 15.17     Basketball Goals and Playground Equipment.** No basketball goals or playground equipment for children shall be permanently installed in any portion of the Lot which is visible from the street nor shall such equipment or goals be left in any portion of the Lot visible from the street for more than 24 consecutive hours.

**SECTION 15.18     Minimum Trees.** Before a home is occupied, the builder of that home shall landscape the Lot with at least the minimum number of trees prescribed by the Architectural Review Committee, using tree sizes and species specified by the Architectural Review Committee. No Owner may remove one of these trees which is living without the written approval of the Architectural Review Committee. If one of these trees dies, the Owner shall promptly remove it at the Owner's expense and replace it at the Owner's expense with a tree of the same species, having a minimum caliper of at least 3 inches.

**SECTION 15.19     Sod.** Before a home is occupied, the builder of that home shall sod all portions of a Lot which are visible from the street with "floratam" sod or other St. Augustine type sod approved by the Architectural Review Committee. After the home is occupied, if the sod dies, the Owner of that home shall replace it at his own cost within 30 days after written request to do so from the Architectural Review Committee.

**SECTION 15.20     Minimum Plants.** Before a home is occupied, the builder of that home shall landscape the front elevation of that home with at least the minimum number of plants prescribed by the Architectural Review Committee, using plant sizes and species specified by the



Architectural Review Committee. After the home is occupied, if one of the required plants dies, the Owner of that home shall promptly replace it at his own cost with a plant of the same species and of a size approved by the Architectural Review Committee.

**SECTION 15.21     Standard Mailbox.** The Architectural Review Committee shall approve a standard mailbox design, color, material, and location and may, at its option, approve a list of approved manufacturers for the mailboxes. The Owners may not make a change in the appearance of any mailbox which will result in it being distinctive from the other mailboxes in the Property.

**SECTION 15.22     Solar Panels and Reflective Window Material.** No solar panels shall be allowed on roofs if they are visible from the street. No reflective film or tinted windows of any kind shall be allowed on any portion of a home which is visible from the street without the prior written approval of the Architectural Review Committee.

**SECTION 15.23     Mitigation Areas.** No owner of property within the subdivision may construct or maintain any building, residence, or structure, or undertake or perform any activity in the wetlands, wetland mitigation areas, buffer areas, upland conservation areas and drainage easements described in the approved permit and recorded plat of the subdivision, unless prior approval is received from the Southwest Florida Water Management District Regulation Department. The Lot Owners shall not remove native vegetation (including cattails) that becomes established within the wet detention ponds abutting their property. Removal includes dredging, the application of herbicide, cutting, and the introduction of grass carp. Lot Owners shall address any questions regarding authorized activities within the wet detention ponds to SWFWMD, Surface Water Regulation Manager.

**MORTGAGEES' RIGHTS AND PROTECTION**

**SECTION 16.1**     Mortgagee Protection Clause. Any breach of the restrictions, covenants, easements, and conditions contained in this Declaration shall in no manner impair the lien of any mortgage on a Lot.

**SECTION 16.2**     Mortgagee's Rights. An Institutional Mortgagee holding a mortgage on a Lot shall be entitled to timely written notice of the following for 5 years from the receipt by the Association of a written request from such a mortgagee setting forth the applicable legal description and address of the subject Lot:

- (a) Any condemnation loss or any casualty loss affecting a material portion of the Property or any individual Lot on which that Institutional Mortgagee holds a first mortgage;
- (b) Any delinquency remaining uncured for a period of 180 days in the payment of assessments or charges owed by any individual Owner of a Lot subject to a first mortgage held by the Institutional Mortgagee; and
- (c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

**ARTICLE 17.**

**GENERAL PROVISIONS**

**SECTION 17.1**     Captions and Headings. The captions and headings pertaining to

the articles and paragraphs contained in this Declaration are solely for the convenience of reference and in no way shall such captions or headings define, limit or in any way affect the substance of the provisions contained in this Declaration.

**SECTION 17.2      Severability.** If any of the terms or provisions contained in this Declaration shall be deemed invalid by a court of competent jurisdiction, such term or provision shall be severable from this Declaration and the invalidity or unenforceability of any such term or provision shall not affect or impair any other term or Provision contained in this Declaration.

**SECTION 17.3      Number and Gender.** Whenever used in this Declaration, the singular number shall include the plural, the plural number shall include the singular and the use of any one gender shall be applicable to all genders.

**SECTION 17.4      Conflicting Provisions.** If there is any conflict between the Articles of Incorporation and this Declaration, the terms and provisions of this Declaration shall control, and if there is any conflict between the Bylaws and this Declaration, the terms and provisions of this Declaration shall control.

## **ARTICLE 18.**

### **PARTY WALLS, ROOFS, AND UTILITY CONNECTIONS**

**SECTION 18.1      General Rules of Law to Apply.** Each wall or fence built upon the Property and placed on a dividing line between Lots, and the roofs between Lots, are considered to be a party wall, fence or roof, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and the liability for property damage caused by negligence or willful acts or commission apply to the ownership, maintenance and use of such walls, fences, and roofs.

**SECTION 18.2**     **Sharing of Repair and Maintenance.** The cost of reasonable repair, maintenance and replacement of a party wall, fence, and roof shall be shared by the Owners who make use of the wall, fence and roof in proportion to such use.

**SECTION 18.3**     **Destruction by Fire or Other Casualty.** If a party wall, fence or roof is destroyed or damaged by fire or other casualty and is not covered by insurance, any owner who has used the wall, fence, or roof may restore it, and, if other Owners thereafter make use of the wall, fence or roof, they shall contribute to the cost of restoration, in proportion to their use, all without prejudice to the right of any such Owner to call for larger contribution from the others under any rule of law regarding liability for negligence or willful acts or omissions.

**SECTION 18.4**     **Weatherproofing.** Notwithstanding any other provision of this Article, an Owner who by his negligence or willful act causes any party wall, fence or roof to be exposed to the elements, or to infestation by termites or other injurious agencies, shall bear the whole cost of furnishing the necessary protection against such elements or agencies and of repairing all resulting damage.

**SECTION 18.5**     **Right to Contribution Runs With the Land.** The right of any Owner to contribution from any other Owner under this Article is appurtenant to the Lot affected and shall pass to and bind each such Owner's successors in title.

**SECTION 18.6**     **Number of Dwellings.** No portion of the Property may be combined or resubdivided in any manner so as to increase the number of dwellings on the Property from those established on the site plan of the Property.

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IN WITNESS WHEREOF, this Declaration of Covenants, Conditions, Restrictions and

Easements has been executed by Declarant on this 28 day of August, 2001

Signed, sealed and delivered  
in the presence of

Daisy Cruz  
Witness  
Print Name: Daisy Cruz

Madeline Rodriguez  
Witness  
Print Name: Madeline Rodriguez

WILLOW STREET PROPERTIES, LLC  
a Florida limited liability company

By: Sam Agliano  
Name: SAM Agliano  
Title: GENERAL PARTNER MANAGER  
Address: 5002 N Howard Avenue  
Tampa, Florida 33602

STATE OF FLORIDA  
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me this 28 day of August 2001, by SAM Agliano as MANAGER ~~General Partner~~ of WILLOW STREET PROPERTIES, LLC who is personally known to me or who has produced \_\_\_\_\_ as identification.

Debra C. Morgan  
NOTARY PUBLIC, STATE OF FLORIDA  
Printed name DEBRA C. MORGAN  
My commission expires



Debra C. Morgan  
MY COMMISSION # CC834425 EXPIRES  
June 5, 2003  
BONDED THRU TROY FAIN INSURANCE, INC.

**OR BK 11046 PG 1226**

THIS IS NOT A  
**EXHIBIT "A"**  
CERTIFIED COPY  
**LEGAL DESCRIPTION FOR THE PROPERTY**

**Lots 1 through 12, WILLOW TOWNHOUSES, according to the map or plat thereof recorded in Plat Book 90, Page 13, Public Records of Hillsborough County, Florida.**

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EXHIBIT "B"

CERTIFIED COPY  
JOINDER AND CONSENT  
FOR WILLOW STREET PROPERTIES HOMEOWNERS ASSOCIATION, INC.

WILLOW STREET PROPERTIES HOMEOWNERS ASSOCIATION, INC , a Florida non-profit corporation, hereby joins in and consents to the Declaration of Covenants, Conditions, Restrictions and Easements of Willow Street Properties, and hereby accepts the obligations imposed upon it by said Declaration

WILLOW STREET PROPERTIES  
HOMEOWNERS ASSOCIATION, INC ,  
a Florida non-profit corporation

Witnesses.

Daisy Cruz  
Print Name: Daisy Cruz

By: Sam Agliano  
Name: Sam Agliano  
Its. President

Madeline Rodriguez  
Print Name: Madeline Rodriguez

STATE OF FLORIDA  
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me this 28 day of August, 2001, by Sam Agliano, as President of WILLOW STREET PROPERTIES HOMEOWNERS ASSOCIATION, INC , a Florida non-profit corporation He/She is personally known to me or has produced \_\_\_\_\_ as identification

Debra C Morgan  
Print Name DEBRA C. MORGAN  
(Notary Public)

My Commission Expires:

June 5, 2003

(AFFIX NOTARY SEAL)



Debra C. Morgan  
MY COMMISSION # CC834425 EXPIRES  
June 5, 2003  
BONDED THRU TROY FAIR INSURANCE, INC.

Exhibit "C"  
Page 1 of 10

# State of Florida



Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of WILLOW STREET PROPERTIES HOMEOWNERS ASSOCIATION, INC., a Florida corporation, filed on August 1, 2000, as shown by the records of this office.

I further certify the document was electronically received under FAX audit number H00000040416. This certificate is issued in accordance with section 15.16, Florida Statutes, and authenticated by the code noted below

The document number of this corporation is N00000005044.

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

Authentication Code: 300A00041874-080200-N00000005044-1/1



CR2E022 (1-99)

*Katherine Harris*  
Katherine Harris  
Secretary of State



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**ARTICLES OF INCORPORATION  
OF  
WILLOW STREET PROPERTIES HOMEOWNERS ASSOCIATION, INC.**

The undersigned incorporator hereby adopts the following Articles of Incorporation for the purpose of forming a corporation not-for-profit under the laws of the State of Florida.

**ARTICLE 1  
CORPORATE NAME**

The name of the Corporation shall be WILLOW STREET PROPERTIES HOMEOWNERS ASSOCIATION, INC., a Florida corporation not for profit, hereinafter called the "Association."

The initial principal office and mailing address of the Association shall be:

5002 N. Howard Avenue  
Tampa, Florida 33603

**ARTICLE 2  
DURATION**

The duration of the Association shall be perpetual.

**ARTICLE 3  
DEFINITIONS**

The terms used in these Articles of Incorporation shall have the same definitions and meanings as those set forth in the Declaration of Covenants, Conditions, Restrictions, and Easements of Willow Street Properties (the "Declaration"), recorded or to be recorded in the Public Records of Hillsborough County, Florida, unless herein provided to the contrary or unless the context otherwise requires.

**ARTICLE 4  
COMMENCEMENT OF CORPORATE EXISTENCE**

The corporate existence of the Association shall commence at the time these Articles of Incorporation are filed by the Department of State of the State of Florida.

**ARTICLE 5**  
**PURPOSES AND POWERS**

The Association is not organized for pecuniary profit or financial gain, and no part of the Association's income or profit is distributable to its Members, Directors, or Officers.

The purposes for which the Association is formed are:

(a) To own, operate, maintain, preserve or replace, and to provide architectural control over, the Lots and Common Areas located in the Property situate in Hillsborough County, Florida, known as Willow Street Properties, per map or plat thereof recorded or to be recorded in the Public Records of Hillsborough County, Florida, and described in the Declaration; and

(b) To operate and maintain the surface water management system of Willow Street Properties, per map or plat thereof recorded or to be recorded in the Public Records of Hillsborough County, Florida, as permitted by the Southwest Florida Water Management District, including, but not limited to, all lakes, retention areas, culverts, and related appurtenances; and

(c) To exercise all of the powers and privileges, and to perform all of the duties and obligations, of the Association as set forth in the Declaration, as the same may be amended from time to time, said Declaration being incorporated herein as if set forth in full; and

(d) Such other purposes as the Board of Directors of the Association may determine are appropriate to carry out the intent of the Declaration as it may be amended from time to time.

The powers of the Association that may be exercised by the Board of Directors are:

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(a) all powers which are necessary or convenient to carry out the above purposes;

(b) all powers granted in the Declaration;

(c) all powers enumerated in Section 617.0302 of the Florida Statutes in effect on the date of commencement of the corporate existence of the Association, and any other powers subsequently included in that section or any other section of the Florida Statutes which enumerates powers that a non-profit corporation may have, provided the powers shall be exercised in a manner consistent with the Declaration.

The foregoing enumeration of specific purposes and powers shall not be construed to limit or restrict in any way the purposes and powers of the Association that may be granted by applicable law and any amendments thereto.

## ARTICLE 6 BOARD OF DIRECTORS

6.1. NUMBER AND QUALIFICATIONS. The business and affairs of the Association shall be managed and governed by a Board of Directors. The number of Directors constituting the initial Board of Directors shall be three (3). The number of directors may be increased or decreased from time to time in accordance with the Bylaws of the Association, but in no event shall there be less than three (3) Directors. Directors need not be Members of the Association nor residents of the Lots.

6.2. DUTIES AND POWERS. All of the duties and powers of the Association existing under the Declaration, these Articles of Incorporation and the Bylaws shall be exercised exclusively by the Board of Directors, its agents, contractors or employees, subject to approval by Owners only when such approval is specifically required.

**6.3. ELECTION; REMOVAL.** The initial Directors shall be elected or appointed by the incorporator. All Directors other than the initial Directors shall be elected or appointed in the manner determined by and subject to the qualifications set forth in the Bylaws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Bylaws.

**ARTICLE 7-  
TRANSACTIONS IN WHICH DIRECTORS OR  
OFFICERS ARE INTERESTED**

No contract or transaction between the Association and one or more of its Directors or Officers or between the Association and any other corporation, partnership, association or other organization in which one or more of its Officers or Directors are officers or directors shall be invalid, void or voidable solely for this reason or solely because the Officer or Director is present at, or participates in, meetings of the board or committee thereof that authorized the contract or transaction, or solely because such Officer's or Director's votes are counted for such purpose. No Director or Officer of the Association shall incur liability by reason of the fact that such Director or officer may be interested in any such contract or transaction. Interested Directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee that authorized the contract or transaction.

**ARTICLE 8  
OFFICERS**

The affairs of the Association shall be administered by the Officers holding the offices designated in the Bylaws. The Officers shall be elected and removed and vacancies filled as provided in the By-Laws.

**ARTICLE 9  
MEMBERSHIP**

Until the Declaration is recorded and a Lot is conveyed by Declarant to another Owner, the initial and sole Member shall be Declarant. Thereafter the Members shall be those parties identified in the Declaration as Members. The manner of termination and the transferability or nontransferability of membership is set forth in the Declaration.

**ARTICLE 10  
AMENDMENT**

Amendments to these Articles of Incorporation shall be made in the following manner:

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

10.2. ADOPTION. The resolution for the adoption of a proposed amendment may be proposed by either a majority of the Board of Directors or by not less than one third (1/3) of the Members. Directors and Members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided that the approval is delivered to the Secretary at or prior to the meeting. The approval must be by not less than a majority of the votes of all the Members represented at a meeting at which a quorum of Members is present.

10.3. LIMITATION. No amendment shall make any changes in the qualifications for membership, nor in the voting rights or property rights of Members, nor any changes in the Articles of Incorporation hereof entitled "PURPOSES AND POWERS" and "INDEMNIFICATION," respectively, without the approval in writing of all Members and the joinder of all record owners of mortgages on Lots. No amendment shall be made that is in conflict with the Declaration or Bylaws, nor shall any amendment make changes that would in any way affect the rights, privileges, powers or options herein provided in favor of, or reserved to,

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Declarant, or an affiliate of Declarant, unless Declarant shall join in the execution of the amendment.

10.4. DECLARANT'S AMENDMENT. The Declarant may amend these Articles of Incorporation consistent with the provisions of the Declaration allowing certain amendments to be effected solely by the Declarant.

10.5. RECORDING. A copy of each amendment shall be filed with the Secretary of State pursuant to the provisions of applicable Florida law, and a copy certified by the Secretary of State shall be recorded in the Public Records of Hillsborough County, Florida.

#### ARTICLE 11 BYLAWS

The initial Bylaws of the Association shall be adopted by the Board of Directors and may be altered, amended, rescinded in the manner provided in the Bylaws.

#### ARTICLE 12 INCORPORATOR

The name and address of the incorporator of the Association is:

Sam Agliano  
5002 N. Howard Avenue  
Tampa, Florida 33603

#### ARTICLE 13 INDEMNIFICATION

The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a director, employee, officer or agent of the Association, against all expenses (including attorneys' fees and appellate attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably

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incurred by him in connection with such action, suit or proceeding, unless (a) a court of competent jurisdiction determines, after all available appeals have been exhausted or not pursued by the proposed indemnitee, that he did not act in good faith, or in a manner he reasonably believed to be in, or not opposed to, the best interests of the Association, and, with respect to any criminal action or proceeding, that he had reasonable cause to believe his conduct was unlawful, and (b) such court further specifically determines that indemnification should be denied. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful. Expenses incurred in defending a civil or criminal action, suit or proceeding shall be paid by the Association in advance of the final disposition of such action, suit or proceeding upon the receipt of an undertaking by or on behalf of the affected director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Article. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any bylaw, agreement, vote of members or otherwise, and shall continue as to a person who has ceased to be a director, officer, employee or agent, and shall inure to the benefit of the heirs and personal representatives of such person. The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association, as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and

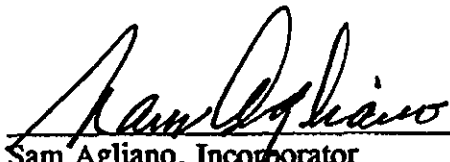
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incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article. Notwithstanding anything herein to the contrary, the provisions of this Article may not be amended without the prior written consent of all persons whose interest would be adversely affected by such amendment.

ARTICLE 14  
INITIAL REGISTERED OFFICE AND AGENT

The street address of the initial registered office of the Association is: 5002 N. Howard Avenue, Tampa, Florida 33603, and the name of the initial registered agent of the Association at said address is: Sam Agliano.

IN WITNESS WHEREOF, the undersigned has executed these Articles of Incorporation on this 1<sup>st</sup> day of August, 2000.

  
Sam Agliano, Incorporator




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

In compliance with the laws of Florida, the following is submitted:

That desiring to organize under the laws of the State of Florida, the corporation named in the foregoing Articles of Incorporation has named Sam Agliano, whose address is 5002 N. Howard Avenue, Tampa, Florida 33603, as its statutory registered agent. This address is identical with the registered office identified in said Articles. Having been named registered agent of said corporation at the place designated in this certificate, I state that I am familiar with and hereby accept the obligations of that position and agree to act in that capacity, and agree to comply with the provisions of Florida law relative to keeping the registered office open.

Dated this 1<sup>st</sup> day of August, 2000.

  
\_\_\_\_\_  
Sam Agliano, Registered Agent

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BYLAWS  
OF  
WILLOW STREET PROPERTIES HOMEOWNERS ASSOCIATION, INC.  
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ARTICLE I

NAME, PURPOSE AND LOCATION

SECTION 1.1. Name. The name of the corporation is Willow Street Properties Homeowners Association, Inc. (hereinafter referred to as the "Association"). The Association is a not-for-profit corporation organized and existing under the "Florida Not For Profit Corporation Act," Chapter 617 of the Florida Statutes.

SECTION 1.2. Purposes. The Association has been incorporated for the purposes set forth in the Articles of Incorporation of Willow Street Properties Homeowners Association, Inc., including, but not limited to, the general purposes of administering, managing, operating, maintaining and preserving a residential community known as Willow Street Properties situate in Hillsborough County, Florida, and governed by that certain Declaration of Covenants, Conditions, Restrictions, and Easements of Willow Street Properties as recorded in the Public Records of Hillsborough County, Florida, and as may be amended from time to time.

SECTION 1.3. Location of Principal Office. The principal office of the Association shall initially be located at such place as specified in the Articles of Incorporation and may be relocated from time to time to such location as designated by the Board of Directors.

ARTICLE II

DEFINITIONS

SECTION 2.1. Definitions. For ease of reference: (a) these Bylaws shall be referred to as the "Bylaws", (b) the Articles of Incorporation of the Association as the "Articles of Incorporation", (c) the Declaration of Covenants, Conditions, Restrictions, and Easements of

Willow Street Properties, to be recorded in the Public Records of Hillsborough County, Florida, as the "Declaration", and (d) the Florida Not For Profit Corporation Act, Chapter 617 of the Florida Statutes, as the "Florida Not For Profit Corporation Act". The terms used in these Bylaws shall have the same definition and meaning as those set forth in the Declaration unless herein provided to the contrary, or unless the context otherwise requires.

### ARTICLE III

#### MEMBERSHIP AND VOTING

**SECTION 3.1.      Membership.** The Members of the Association shall be those parties identified in the Declaration as Members.

**SECTION 3.2.      Voting.** Each Lot shall be allocated and entitled to the number of votes specified in the Declaration. In addition, each acre of land owned by Declarant in the Property shall be allocated and entitled to the number of votes specified in the Declaration. The Article of the Declaration titled "VOTING RIGHTS" is incorporated in this Section of the By-Laws by reference, and should be referred to for a more detailed description of the voting rights. The vote to which any Lot is entitled shall not be divisible, and shall be cast by the Member designated and entitled to cast the vote according to the terms and provisions of the Declaration and the following:

- (a) In the event an Owner is one person, that person's right to vote shall be established by the recorded title to the Lot at issue.
- (b) In the event a Lot is owned by more than one person or entity, those persons or entities shall sign a voting certificate designating one of them for the purpose of casting the vote that is appurtenant to their Lot; in the event any such voting certificate is not filed

with the Association, the vote to which such Lot is entitled shall not be considered in determining whether a quorum is present, or for any other purpose, and the total number of authorized votes in the Association shall be reduced accordingly until such certificate is filed.

(c) In the event a Lot is owned by an entity other than Declarant, such entity shall designate a partner, officer, fiduciary, or employee of the entity to cast the vote that is appurtenant to the subject Lot; the voting certificate for such Lot shall be signed by any duly authorized partner or officer of the entity.

(d) With respect to Lots and other land owned by Declarant, any officer or agent of Declarant present at a meeting or signing a proxy may cast the Declarant's vote.

(e) Notwithstanding anything to the contrary contained in these Bylaws, in the event a Lot is owned jointly by a husband and wife, the following provisions shall be applicable to the casting of the vote that is appurtenant to their Lot: (i) The husband and wife may, but shall not be required to, designate one of them as the voting member; (ii) In the event the husband and wife do not designate either of them as the person entitled to cast the vote that is appurtenant to their Lot, and if both persons are present at any regular or special meeting of the Members and are unable to concur in their decision upon any subject requiring a vote of the Members, such husband and wife shall lose their right to vote on that particular subject at that particular meeting; and (iii) In the event the husband and wife do not designate one of them as the person entitled to cast the vote appurtenant to their Lot, and only one of them is present at any meeting, the member present may cast the vote to which their Lot is entitled, without establishing the concurrence of the absent member.

The voting rights of Members other than Declarant shall be subject to the Association's right to suspend such voting rights as provided in the Declaration.

**SECTION 3.3. Voting Certificate and Ledger.** All voting certificates shall be filed with the Secretary. The Secretary shall keep all voting certificates and shall prepare and maintain a ledger listing, by Lot, each Member who is designated to vote on behalf of such Lot.

**SECTION 3.4. Quorum.** The presence of designated voting Members holding thirty percent (30%) of all of the votes (including those to which Declarant is entitled) eligible to be cast by the Members, either in person or by proxy, shall be necessary to constitute a quorum at any meeting of Members. A majority votes (including those to which Declarant is entitled) of the Members present either in person or by proxy at any meeting of the Association when a quorum is present shall decide any matter to be determined by the Association, unless otherwise provided by the Articles of Incorporation, Bylaws or Declaration, in which event the voting percentage required by such other provision shall control.

**SECTION 3.5 Adjourned Meetings.** In the event less than a quorum is present at any annual or special meeting of the Members, the President may adjourn the meeting from time to time until a quorum is present. Any business that might have been transacted at a meeting as originally called may be transacted at any adjourned meeting thereof. Notwithstanding anything to the contrary contained in these Bylaws, notice to Members of adjourned meetings shall be required only if required under the provisions of the Florida Not For Profit Corporation Act governing Homeowners Associations.

**SECTION 3.6. Proxies.** Any member of the Association who is entitled to cast the vote for a Lot may, by written proxy, authorize another person to vote on behalf of such Lot.

Any such written proxy shall comply with the provisions of the Florida Not For Profit Corporation Act governing Homeowners Associations. The Board of Directors may, in its discretion, prescribe a form for written proxies. Any proxy must be filed with the Secretary before the appointed time of the particular meeting for which the proxy is given in order for the proxy to be effective. A proxy may be revoked by the person executing it prior to the time a vote is cast pursuant to such proxy. A proxy shall be valid only for the meeting for which it is given as specified therein, and any adjournment of such meeting.

**SECTION 3.7. Secret Ballot.** At any time prior to a vote upon any matter at any meeting of Members, any member may require that a vote be made by secret written ballot. If secret written ballots are used, the Chairman of the meeting shall call for nominations and the election of three (3) inspectors of elections to collect and tally such ballots. Such inspectors of elections shall be nominated by a Member or Members and chosen by a majority vote of the membership.

**SECTION 3.8. Annual Meeting.** The annual meeting of the Members of the Association shall be held on the first Tuesday in August of each year, or on such other date as may be determined by the Board of Directors, for the purpose of electing Directors and transacting any other business that may be transacted by the Members; provided, however, that, if that day is a legal holiday, the annual meeting shall be held on the next secular day. The annual meeting shall be held at a time and place within Hillsborough County, Florida, as the Board of Directors shall designate.

**SECTION 3.9. Special Meetings.** Special meetings of the Members of the Association shall be called by the Board of Directors or upon the written request of the Members

who are entitled to vote at least one-third (1/3) of all of the votes eligible to be cast by the Members. Special meetings of members shall be held on such date, and at such time and place in Hillsborough County, Florida, as the Board of Directors shall designate.

**SECTION 3.10. Notice of Meetings.** A written notice of the date, time, place and purpose of all annual and special meetings of Members shall be given to each Member, either personally or by mail at the Member's last known address as it appears on the books and records of the Association. Any such notice shall be given to the Members not less than fifteen (15) and not more than forty (40) days before the meeting to which the notice pertains. If notice is given by mail, it shall be effective five days after deposit in a mail receptacle maintained by the United States Postal Service. In the event any Member desires that notice be mailed to an address other than the address that appears on the books and records of the Association, such Member shall file a written request with the Secretary that notices intended for that Member be mailed to some other address, in which case notices shall be mailed to the address designated in such request. Additionally, the Secretary of the Association shall cause one or more copies of any such written notice to be posted in a conspicuous place or places on the Property at least fifteen (15) days prior to the meeting for which the notice is given.

**SECTION 3.11. Waiver of Notice.** Notwithstanding anything to the contrary contained in the Articles of Incorporation, the Declaration or these Bylaws, notice of any regular or special meeting of Members may be waived by any Member before, during or after any such meeting, which waiver shall be in writing and shall be deemed to be that Member's receipt of notice of such meeting.

**SECTION 3.12. Action Without a Vote or Meeting.** Any action required or permitted

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to be taken by the Members may be taken without a meeting, without prior notice, and without a vote if the action is taken by the Members entitled to vote on such action and having not less than the minimum number of votes necessary to authorize such action at a meeting at which all Members entitled to vote on such action were present and voted. In order to be effective the action must be evidenced by one or more written consents describing the action taken, dated and signed by approving Members having the requisite number of votes and entitled to vote on such action. The procedures and requirements for such written consents shall be in accordance with the Florida Not For Profit Corporation Act.

SECTION 3.13. Minutes of Meetings. The minutes of all meetings of Owners shall be kept in a book available for inspection by Owners, or their authorized representatives, and by Directors at reasonable times.

SECTION 3.14. Rules of Order. All meetings shall be conducted in accordance with Roberts Rules of Order.

#### ARTICLE IV

##### BOARD OF DIRECTORS

SECTION 4.1. Number of Directors. The business and affairs of the Association shall be managed and governed by a Board of Directors composed of not less than three (3). The number of Directors may be increased (or decreased to no less than three) by a vote of the Members.

SECTION 4.2. Appointment of Directors Prior to Transfer of Control. The initial Directors have been appointed by the incorporator of the Association. These initial Directors shall serve until their successors are appointed or elected. Until Declarant transfers control of the



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Association to the other Owners as provided in the Declaration, all Officers (including successors to the initial Directors) shall be appointed by Declarant unless Declarant, in its sole discretion, consents to the election of one or more Directors by Members prior to such transfer of control.

Each Director appointed by Declarant shall serve on the Board of Directors until he resigns, is disqualified or is removed from office. Until such time as Declarant transfers control of the Association to the Owners as provided in the Declaration, Declarant may, in Declarant's sole discretion, remove any Director appointed by Declarant and appoint his or her successor.

**SECTION 4.3. Nomination and Election of Directors after Transfer of Control.**

After Declarant transfers control of the Association to the other Owners as provided in the Declaration, the nomination and election of Directors shall be conducted as follows:

- (a) Nominations may be made by Members at each annual meeting of Members and by a nominating committee, which shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more Members. The nominating committee shall be appointed by the Board of Directors at least sixty (60) days prior to each annual meeting of Members to serve until the close of that annual meeting.
- (b) Each Director who shall serve on the Board of Directors shall be elected by a plurality of votes cast at the annual meeting of Members, provided a quorum of the Members entitled to vote is present, either in person or by proxy. The nominees receiving the largest number of votes shall be elected Directors. There shall be no cumulative voting.
- (c) Directors elected by Members shall serve until the next Annual Meeting or until he or she resigns by written notice to the Board.

(d) After Declarant transfers control of the Association to the other Owners as provided in the Declaration, any Director may be removed from his service on the Board of Directors with or without cause, by the affirmative vote of a majority of the Members at a special meeting of Members called for that purpose, and a successor Director shall, at such meeting, be elected to fill the vacancy thus created.

(e) In the event the office of any Director elected by the Members becomes vacant by reason of death, resignation, or disqualification, a majority of the remaining Directors, although less than a quorum, shall choose a successor Director to fill such vacancy; any successor Director shall serve on the Board of Directors for the balance of the unexpired term of the office he was chosen to fill.

**SECTION 4.4      Organizational Meetings.** Within ten (10) days after each annual election of the Board of Directors, the newly elected Directors shall meet for the purpose of organization, the election of Officers, and the conduct of other business that may be transacted by the Board of Directors. The organizational meeting shall be held on such date and at such time and place as shall be fixed by the Board of Directors at the meeting at which they were elected, and no further notice of the organizational meeting shall be necessary, provided all Directors are present at the meeting at which they were elected. In the event all Directors are not present, notice of the organizational meeting shall be given as provided in this Article of the Bylaws.

**SECTION 4.5.      Regular Meetings.** The Board of Directors shall, at each organizational meeting, establish a schedule of regular meetings to be held during the period of time between such organizational meeting and the next annual meeting of Members. All meetings of the Board of Directors other than those established as regular meetings shall be special

**SECTION 4.6. ~~Special Meetings.~~** Special meetings of the Board of Directors shall be held when called by the President of the Association or by any Director.

**SECTION 4.7. Notice of Meetings.** Except as otherwise provided in these Bylaws, notice of the date, time and place of meetings of the Board of Directors, or adjournments thereof, shall be given to each Director by personal delivery, by ordinary mail at a Director's usual place of business or residence, or by telephone or telegraph, not less than three (3) days prior to the date of such meeting. If mailed, such notice shall be effective five days after deposit in a mail receptacle maintained by the United States Postal Service. If given by telegram, such notice shall be deemed delivered when delivered to the telegraph company. The notice for any special meeting of the Board of Directors shall state the purpose of such special meeting; provided, however, that if all Directors are present at any special meeting, notice of a specific purpose shall be deemed waived and any business may be transacted by the Board of Directors at such special meeting. Meetings of the Board of Directors shall be open to all owners and notice of such meeting shall be posted conspicuously on the Property at least forty-eight (48) hours in advance for the attention of the Members, except in the event of an emergency, provided that Owners shall not be permitted to participate in, and need not be recognized at, any such meeting.

**SECTION 4.8. Waiver of Notice.** A director may waive notice of any meeting of the Board of Directors for which notice is required to be given pursuant to the terms and provisions of these Bylaws by signing a written Waiver of Notice before, during or after any such meeting of the Board of Directors. Attendance by any Director at any regular or special meeting of the Board of Directors shall be deemed to constitute that Director's waiver of notice of such

**SECTION 4.9. Chairman.** The President shall preside as Chairman at all regular and special meetings of the Board of Directors. In the President's absence, the Directors present at any such meeting shall choose a Chairman to preside at the meeting.

**SECTION 4.10. Quorum.** A quorum of the Board of Directors shall consist of a majority of the total number of Directors serving on the Board of Directors. In the event less than a quorum is present at any meeting of the Board of Directors, the majority of the Directors present may adjourn the meeting from time to time until a quorum is present. Any business which might have been transacted at any meeting of the Board of Directors as originally called may be transacted at any adjourned meeting thereof.

**SECTION 4.11. Voting.** Each Director is entitled to cast one vote on any matters of business properly before the Board of Directors at any regular or special meeting of the Board of Directors. Each and every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be the act of the Board of Directors.

**SECTION 4.12. Action Without Meeting.** The Board of Directors may act without a meeting if a consent in writing setting forth the action so taken is signed by all of the Directors and is filed with the minutes of the meetings of the Board of Directors. Such consent shall have the same effect as a unanimous vote of the Board of Directors and a resolution thereof.

**SECTION 4.13. Telephone Meeting.** Any Director may participate in any meeting of the Board of Directors by means of conference telephone or any similar means of communication by which all Directors participating can hear each other at the same time. Such

participation by any Director shall constitute that Director's presence in person at any meeting.

**SECTION 4.14. Minutes of Meetings.** The Chairman shall, at each regular and special meeting of the Board of Directors, appoint a Director to record the minutes of the meeting.

Minutes of all meetings of the Board of Directors shall be kept in a businesslike manner and shall include all matters of business brought before the Board of Directors, and all motions, votes, acts and resolutions by the Board of Directors. The minutes of all meetings of the Board of Directors shall be made available to any Director, Officer or Member of the Association at the office of the Association during reasonable times and upon reasonable notice by the person requesting to inspect them.

**SECTION 4.15. Compensation and Expenses.** No Director shall receive any compensation or salary for his service as a Director on the Board of Directors; provided, however, that the Association may reimburse any Director for actual expenses incurred in the performance of his duties, and contract with a Director for the rendition of unusual or exceptional services to the Association and compensate him in an amount that is appropriate in light of the value of such services.

**SECTION 4.16. Powers and Duties.** The Board of Directors may on behalf of the Association, exercise all powers and duties reasonably necessary to administer, manage, operate, preserve and maintain the Association and the Property as set forth in the Articles of Incorporation, Declaration and Bylaws and granted by law to directors. Such powers shall include but not be limited to, all powers specifically set forth in the Declaration, the Articles of Incorporation, these Bylaws, and in the Florida Not-For-Profit Corporation Act, all powers incidental thereto, and all other powers of a Florida corporation not for profit. The Board may

authorize the Association to contract for the management and maintenance of the Property and authorize a management agent (who may be an affiliate of Declarant) to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules, and maintenance, repair, and replacement of the Common Areas, with such funds as shall be made available by the Association for such purposes (the Association and its Board shall, however, retain at all times the powers and duties granted by the Declaration, Articles of Incorporation and these Bylaws, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association).

## ARTICLE V

### OFFICERS

**SECTION 5.1. Elective Officers.** The principal officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected annually by a majority vote of the Board of Directors at the organizational meeting of the Board of Directors. Members of the Board of Directors may also serve as elective officers.

**SECTION 5.2. Appointive Officers.** The Board of Directors may appoint Assistant Vice Presidents, Assistant Secretaries, Assistant Treasurers, and such other officers as the Board of Directors deems necessary to administer the business and affairs of the Association.

**SECTION 5.3. Term and Qualifications of Officers.** The President of the Association shall be elected from among the Directors serving on the Board of Directors. Each officer of the Association shall serve as an officer until his successor has been duly elected and qualified, or until he resigns, is disqualified or is removed from office as provided in these

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Bylaws. Officers are not required to be Owners or residents of the Lots.

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**SECTION 5.4. Resignations.** Any officer of the Association may resign from office in the manner provided in the Florida Not For Profit Corporation Act.

**SECTION 5.5. Removal.** Any officer may be removed with or without cause from office at any time by the Board of Directors.

**SECTION 5.6. Vacancies.** In the event any office of the Association becomes vacant by reason of an officer's death, resignation, removal, disqualification or otherwise, the Board of Directors may elect an officer to fill such vacancy at any regular meeting of the Board of Directors or at a special meeting of the Board of Directors called for that purpose. Any officer so elected shall serve as an officer of the Association for the unexpired portion of the term of office he was elected to fill.

**SECTION 5.7. President.** The President shall be responsible for general supervision over the business and affairs of the Association, shall administer the enforcement of all resolutions, orders and policies of the Board of Directors, and shall perform such other duties and functions as may be delegated to him or required of him by the Board of Directors. The President shall sign, in the name of the Association, any and all contracts, mortgages, notes, deeds, leases and other written instruments authorized by the Board of Directors.

**SECTION 5.8. Vice President.** Unless otherwise provided in these Bylaws, the Vice President shall exercise all of the powers and perform all of the duties of the President in the event of the President's absence or inability or refusal to act.

**SECTION 5.9. Secretary.** The Secretary of the Association shall attend all annual and special meetings of the Members, and shall record the minutes of all such meetings. The

SECRETARY shall be responsible for the preparation and maintenance of a ledger containing the names and addresses of all Members, and for the preparation and maintenance of a ledger containing the names and addresses of all Members who have been designated to vote on behalf of any Lot. The Secretary shall issue and distribute notices of all meetings of the Board of Directors and all meetings of Members when such notices are required by these Bylaws or the Declaration. The Secretary shall have charge and custody of the books and records of the Association, except those kept by the Treasurer.

SECTION 5.10. Treasurer. The Treasurer shall have charge and custody of the Association's funds, securities and evidences of indebtedness and shall keep complete and accurate accounts of all receipts and disbursements by him on behalf of the Association. The Treasurer shall disburse the funds of the Association as the Board of Directors may authorize in accordance with the terms and provisions of the Articles of Incorporation, Declaration and these Bylaws. The Treasurer shall be responsible for the preparation and maintenance of an assessments ledger, and for the issuance of certificates regarding the status of assessments with regard to any Lot.

SECTION 5.11. Other Officers. In the event the Board of Directors appoints other officers to serve the Association, such officers shall perform such duties and have such authority as may be determined by the Board of Directors.

SECTION 5.12. Compensation and Expenses. Officers shall not receive any compensation for their service as officers of the Association. The Board of Directors may, in its discretion, reimburse any officer for actual expenses incurred in the performance of that officer's duties, and contract with and compensate an officer for the rendition of unusual or exceptional services to the Association in an amount appropriate in light of the value of such services. The



**EXECUTIVE AND ADVISORY COMMITTEES**

**SECTION 6.1.      Designation of Executive and Advisory Committees.** The Board of Directors may, in its discretion, designate one or more executive or advisory committees for the purpose of effecting any of the business and affairs of the Association as may be authorized and delegated by the Board of Directors, or for the purpose of conducting studies and making reports to, and for consideration by, the Board of Directors with regard to any particular business matter or affair of the Association. Any such executive or advisory committee shall have a chairman and two or more committee members, who must be appointed by the Board of Directors, who need not be Members of the Association, and who may be Directors.

**SECTION 6.2.      Standing Committees.** The standing committees of the Association shall be the Architectural Review Committee and such other committees as the Board of Directors may establish to serve the best interests of the Association. The Architectural Review Committee shall have the powers, duties and functions set forth in the Declaration.

**SECTION 6.3.      Committee Rules and Regulations.** Each committee may adopt rules and regulations for its own government; provided, however, that such rules and regulations are not inconsistent with the terms of the resolution of the Board of Directors designating the committee, with these Bylaws or with the terms and provisions of the Articles of Incorporation and Declaration.

**ARTICLE VII**

**SECTION 7.1. Fiscal Year.** The fiscal year of the Association shall be the calendar year, or as otherwise determined by the Board of Directors.

**SECTION 7.2. Depositories.** The depository of the Association shall be any such bank or savings and loan association as the Board of Directors shall from time to time designate. All funds, securities and evidences of indebtedness shall be deposited with such depository in the name of the Association. Withdrawal of funds from any such depository shall be only on checks signed by officers or other persons authorized by the Board of Directors to be signatories with respect to any such account.

**SECTION 7.3. Assessments, Application of Payments and Commingling of Funds.** The Board of Directors shall prepare an Annual Budget and shall establish annual and special assessments in accordance with the terms and provisions of the Declaration. The obligation for the payment of all assessments shall be governed by the terms and provisions of the Declaration.

## ARTICLE VIII

### AMENDMENTS

**SECTION 8.1. Amendment.** These Bylaws may be amended by a vote of not less than a majority of the Members entitled to vote in person or by proxy at any annual or special meeting of Members at which a quorum is present; provided, however, that a full statement of the proposed amendment is set forth in the notice of such meeting; that so long as Declarant owns at least one Lot, Declarant's written consent to any amendment must first be obtained; and that no amendment shall conflict with the terms and provisions of the Articles of Incorporation or Declaration.

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**SECTION 9.1. Dissolution.** The Association may be dissolved by a vote of the

Members at any regular or special meeting; provided, however, that the proposed dissolution is specifically set forth in the notice of any such meeting, and that so long as Declarant owns at least one Lot, Declarant's prior written consent to the dissolution of the Association must be obtained. Prior to the dissolution of the Association, the responsibility for the operation and maintenance of the surface water management system as permitted by the Southwest Florida Water Management District must be transferred to and accepted by an entity approved by said district.

**ARTICLE X**

**MISCELLANEOUS**

**SECTION 10.1. Captions and Headings.** The captions and headings pertaining to the articles and sections of these Bylaws are solely for ease of reference and in no way shall such captions or headings define, limit or in any way affect the substance of any provisions contained in these Bylaws.

**SECTION 10.2. Severability.** In the event any of the terms or provisions contained in these Bylaws shall be deemed invalid by a court of competent jurisdiction, such term or provision shall be severable from these Bylaws and the invalidity or unenforceability of any such term or provision shall not affect or impair any other term or provision contained in these Bylaws.

**SECTION 10.3. Number and Gender.** Whenever used in these Bylaws, the singular number shall include the plural, the plural number shall include the singular, and the use of any one gender shall be applicable to all genders.

**SECTION 10.4. Conflicting Provisions.** In the event there is any conflict between the Articles of Incorporation and these Bylaws, the terms and provisions of the Articles of Incorporation shall control, and in the event there is any conflict between the Declaration and these Bylaws, the terms and provisions of the Declaration shall control.

**SECTION 10.5. Governing Law.** The terms and provisions contained in these Bylaws shall be construed in accordance with and governed by the laws of the State of Florida.

**END OF BYLAWS**

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