

This instrument prepared by and recorded  
copies sent to:

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## DECLARATION OF COVENANTS AND RESTRICTIONS FOR THE ENCLAVE AT CENTURY PARC

THIS DECLARATION is made this 11<sup>TH</sup> day of JANUARY, 2002, by  
CENTURY PARK AT FLAGLER, LTD., a Florida Limited Partnership (hereinafter called "Developer").

### WITNESSETH:

WHEREAS, Developer is the owner of the property more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Property");

WHEREAS, Developer desires to create on the Property a community of single family attached and detached homes, interior roadways, parking areas, entry feature, perimeter walls, landscaping, irrigation system, a pool and a cabana to be known as "THE ENCLAVE AT CENTURY PARC";

WHEREAS, Developer desires to provide for the preservation and enhancement of the Property, amenities and improvements thereon, and to this end desires to subject the Property to the covenants, restrictions, easements, charges and liens hereafter set forth, all of which are for the benefit of the Property and each Owner, as hereafter defined, thereof;

WHEREAS, to achieve these purposes, Developer deems it desirable to create an agency to which shall be delegated and assigned the powers of owning, maintaining and administering common properties and facilities as well as administering and enforcing these covenants and restrictions and collecting and disbursing the assessments and charges hereafter created, along with promoting the health, safety and welfare of all Owners; and,

WHEREAS, Developer has incorporated, or will incorporate, under the laws of the State of Florida THE ENCLAVE AT CENTURY PARC HOMEOWNERS' ASSOCIATION, INC., as a corporation not for profit for the purpose of exercising all of the functions stated herein, which Association is not intended to be a "Condominium Association" as such term is defined and described in the Florida Condominium Act (Chapter 718 of the Florida Statutes).

NOW, THEREFORE, the Developer declares that the Property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereafter set forth which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

### ARTICLE I - DEFINITIONS

Section 1: "Articles" shall mean and refer to the Articles of Incorporation of the Association, a copy of which is attached hereto as Exhibit "B".

Section 2: "Assessment" shall mean and refer to any assessment or other charge as described in this Declaration.

Section 3: "Association" shall mean and refer to THE ENCLAVE AT CENTURY PARC HOMEOWNERS' ASSOCIATION, INC., a not for profit corporation, its successors and assigns whose purpose is to administer the Property in accordance with the provisions of the Land Use Documents.

Section 4: "Board" shall mean and refer to the Board of Directors of the Association, its successors and assigns.

Section 5: "Book of Resolutions" shall mean and refer to the document containing the rules and regulations and policies adopted by the Board of Directors of the Association as the same may from time to time be supplemented or amended.

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Section 6: "Bylaws" shall mean and refer to the Bylaws of the Association, a copy of which is attached hereto as **Exhibit "C"**.

Section 7: "CDD" means the Community Development District (or special taxing district) established by the Developer incident to the Property pursuant to Chapter 190 of the Florida Statutes.

Section 8: "Common Area" shall mean and refer to those areas of land, together with any improvements thereon, other than the Lots, to be conveyed to the Association and which are intended to be devoted to the common use and enjoyment of the Owners, and which shall include, by way of example, but not by way of limitation, tot lot, if any; street lights; surrounding walls and/or fences, if any; landscaped areas; entrance feature, if any; the pool and cabana.

Section 9: "County" shall mean and refer to Miami-Dade County, Florida.

Section 10: "Declaration" shall mean the covenants, conditions and restrictions and all other provisions hereinafter set forth in this document, as the same may from time to time be amended.

Section 11: "Developer" shall mean and refer to **CENTURY PARK AT FLAGLER, LTD., a Florida Limited Partnership**, its successors and assigns. Any rights specifically reserved to Developer in any instrument of conveyance shall not inure to the benefit of its successors or assigns unless such rights are assigned by Developer in a recorded instrument to such successor or assignee and such successor or assignee accepts the obligations of the Developer. The Developer may assign or pledge any or all of its rights reserved under the Land Use Documents upon a specific designation to such assignee in an instrument of conveyance or assignment. Reference to **CENTURY PARK AT FLAGLER, LTD., a Florida Limited Partnership**, as the Developer is not intended, and shall not be construed, to impose on **CENTURY PARK AT FLAGLER, LTD., a Florida Limited Partnership**, any obligation or liability for the acts or omissions of third parties who purchase Lots within this community from **CENTURY PARK AT FLAGLER, LTD., a Florida Limited Partnership**, and develop and resell such Lots.

Section 12: "General Plan of Development" shall mean the plan for development of the Property as approved by appropriate governmental agencies, and as the same may be amended with amendments approved by the governmental agencies involved.

Section 13: "Household Pet" shall mean dog, cat, fish or other domesticated animal.

Section 14: "HUD/VA" shall mean the Federal Housing Authority and the Veterans Administration.

Section 15: "Improvements" shall mean the pool and cabana, tot lot, if any; entrance feature, if any; dumpster enclosures, surrounding walls and/or fences; and, other private facilities that may be provided in the development of the Property.

Section 16: "Land Use Documents" shall mean and refer to this Declaration, the Articles, Bylaws and any amendments and supplements thereto.

Section 17: "Lender" shall mean and refer to **COLONIAL BANK, an Alabama Banking Corporation**, and the "Lender Mortgage" shall mean and refer to the mortgage from Developer to the Lender, recorded in Official Records Book 18715 at Page 1954 of the Public Records of Miami-Dade County, Florida.

Section 18: "Living Unit" shall mean and refer to each attached or detached residential unit comprised of improvements and land as the same shall be more particularly described in each deed from the Developer to each Owner.

Section 19: "Lot" shall mean any parcel of land shown upon the approved site plan of the Property upon which in the future will be located a Living Unit.

Section 20: "Maintenance" shall mean, but not be limited to, cleanup, landscaping and grounds care, repair and structural upkeep of the Common Area. Additionally, the Association shall have maintenance responsibility with respect to the Lots as set forth in **Article VI, Section 3** below. The Owner of a Living Unit shall be responsible for the maintenance, repair and replacement of doors and windows in the Living Unit.

Section 21: "Member" shall refer to all those Owners who are Members of the Association.

Section 22: "Owner" shall mean and refer to the owner of the fee simple title to any Lot, its successors or assigns, whether one or more persons or entities, as shown by the records of the Association or the Public Records of Miami-Dade County. Owner shall not mean or refer to the holder of a mortgage or security deed, its

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successors or assigns, unless and until such holder has acquired title pursuant to a foreclosure or a proceeding or deed in lieu of foreclosure; nor shall the term "Owner" mean or refer to any lessee or tenant of an Owner.

Section 23: "Plat", shall refer to the Plat of CENTURY VILLAS, as recorded in Plat Book 157, at Page 99 of the Public Records of the County, and any other plats covering property subsequently included under this Declaration.

Section 24: "Property" shall mean and refer to all real property which becomes subject to the Declaration.

Section 25: "Single Family" shall mean and refer to either a single person occupying a dwelling and maintaining a household, including not more than one authorized tenant; two or more persons related by blood, marriage or adoption occupying a dwelling and living together and maintaining a common household, including not more than one authorized tenant; or, not more than four unrelated persons occupying a dwelling as distinguished from a group occupying a boarding or lodging house, hotel, club or similar dwelling for group use.

Section 26: "Surface Water or Storm Water Management Systems" shall mean and refer to a system which is designed and constructed to control the discharge of water caused by rainfall, and which shall incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution which would otherwise affect the quantity and quality of discharges of water from the system.

Section 27: "Rental" shall mean rental of Living Units under the terms and conditions contained in County resolutions and ordinances regulating the rental of real property in the County and the rules and regulations of any other governmental agency regulating the rental of real property.

Section 28: "Turnover" shall mean and refer to that date upon which the Developer's control of the Board of Directors of the Association terminates and control is turned over to a Board of Director selected by the Membership of the Association.

## **ARTICLE II - PROPERTY SUBJECT TO THIS DECLARATION AND ADDITIONS AND DELETIONS**

### **Section 1: Property**

A. Existing Property. The Property which initially is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in the County, and is more particularly described on Exhibit "A" attached hereto and incorporated herein. The Property constitutes that certain subdivision known as CENTURY VILLAS, pursuant to the plat thereof, as recorded in Plat Book 157, at Page 99, of the Public Records of the County, and is commonly known as "THE ENCLAVE AT CENTURY PARC."

B. Additions to or Deletions from the Property. Additional real property may, but is not required to, be added to the Property subject to this Declaration by an amendment hereto and shall include the description of such additional property, and shall subject the additional lands to the provisions of this Declaration. The Developer may also from time to time transfer portions of the Common Area and/or Lots or both by recorded supplemental declarations. Additions or deletions under this Paragraph may occur within 30 years from the date this Declaration is recorded. Such additions or deletions may be accomplished by the Developer provided the annexation or deletion is in accord with this Declaration as the same shall have been modified and approved from time to time by applicable governmental authorities. The amendment shall be executed by the Developer without requiring the joinder and consent of any Owner or the CDD. The amendment, when recorded in the Public Records of the County, shall bring the additional property under the provisions of this Declaration or delete the designated property from the provisions of this Declaration.

C. Additions by Merger. Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the property rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the Property together with the covenants and restrictions established upon any other property as one scheme.

D. Site Plan Changes. Developer reserves the right to make such changes and/or modifications to any plat or site plan as are required by any appropriate governmental authorities or as Developer deems necessary.

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**ARTICLE III - MEMBERSHIP AND VOTING RIGHTS IN THE  
ASSOCIATION, TERMINATION AND TURNOVER**

**Section 1:     Members.**

Every Owner of a Lot, including the Developer, shall be a mandatory member of the Association and by acceptance of a deed or other instrument evidencing ownership interest, each Owner accepts membership in the Association and agrees to abide by and be bound by the provisions of this Declaration and other rules and regulations of the Association. Membership shall be appurtenant to, and may not be separated from, the ownership of any Lot. Transfer of Lot ownership, either voluntarily or by operation of law, shall terminate membership in the Association and said membership shall be vested in the transferee.

**Section 2:     Membership Classification and Voting Rights.**

The Association shall have two (2) classes of voting membership:

Class A - Class A member(s) shall be all Owners of Lots with the exception of Developer (provided that Class B membership continues to exist), and each Class A member shall be entitled to one (1) vote for each Lot owned. There shall be no cumulative voting. At such time as Developer's Class B membership is converted to Class A membership in accordance with the provisions hereafter contained, Developer shall likewise be a Class A member and entitled to one (1) vote for each Lot owned.

Class B - Class B member(s) shall be the Developer who shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership, on the happening of the first of the following events to occur:

- 1)     when seventy-five percent (75%) of Lots with Living Units constructed on them are deeded to Owners; or
- 2)     on December 31, 2003.

From and after the happening of the earliest of these events, each Class B Member shall be deemed to be a Class A Member entitled to one vote for each Lot in which it holds the interest required for membership.

**Section 3:     Turnover.**

At time of Turnover, the Developer shall direct the company employed by the Association to provide management services to the Association to provide the new members of the Board of Directors with all records required to be kept by the Association in accordance with the terms of the Bylaws. These records shall include, but not be limited to, all maintenance and repair records pertaining to the improvements to the Common Area constructed by the Developer together with all warranties still in effect, if any. No warranty for improvements to the Common Area shall extend beyond one year from completion of the improvement to the Common Area and under no circumstances shall the Turnover extend any warranty given by the Developer.

**Section 4:     Developer's Rights as to the Association.**

So long as the Developer is the owner of any of the Property which it leases or offers for sale in the ordinary course of business, the Board shall have no authority to and shall not, without the Developer's consent, undertake any action which shall: (a) prohibit or restrict in any manner the sales and marketing program of the Developer; (b) make any special or individual assessment against or impose any fine upon the Developer's property or the Developer; (c) authorize or undertake any litigation against the Developer; (d) alter or amend the Declaration, any subsequent amendment thereto, the Articles or Bylaws; (e) terminate or cancel any easements granted hereunder; (f) terminate or impair in any fashion any easements, powers or rights of the Developer hereunder; or (g) restrict the Developer's right of use, access and enjoyment of any of the Property unless the Developer consents to the action. The Developer's consent shall be exercised by its appointee on the Board or other person designated to so act by the Developer.

**Section 5:     Multiple Owners.**

When any Lot entitling the Owner to membership in the Association is owned of record in the name of two or more persons or entities, or if two or more persons or entities have the same fiduciary relationship respecting the same property, such Owner shall select one official representative to qualify for voting in the Association and shall notify in writing the Secretary of the Association of the name of such individual. The vote of such individual shall be considered to represent the will of all the Owners of that Lot. In the

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circumstance of such common ownership, if the Owners fail to designate their voting representative then the Association may accept the person asserting the right to vote as the voting Owner until notified to the contrary by the other Member(s). Upon such notification, the Owner may not vote until the Owner(s) appoint their representative pursuant to this paragraph.

Unless otherwise specifically defined herein, any reference in this Declaration to the vote or consent of Members shall mean the required number or percentage of Lots and not the required number or percentage of Members or Owners.

Section 5: Record Date.

For purposes of determining voting rights hereunder, the membership roster of record Owners shall be set as of three (3) days prior to the commencement of the meeting at which the vote shall take place.

**ARTICLE IV - COMMON AREA. EASEMENTS**

Section 1: Obligations of the Association

The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management, maintenance and control, of the Common Area and all improvements thereon (including furnishings and equipment related thereto), and the Association shall keep the same in good, clean, attractive order and repair.

The CDD shall be responsible for the maintenance, operation and repair of the Surface Water or Stormwater Management System. Maintenance of the Surface Water or Stormwater Management System shall mean the exercise of practices which allow the system to provide drainage, water storage, conveyance or other capabilities, as permitted by the South Florida Water Management District. Any repair or reconstruction of the Surface Water or Stormwater Management System shall be as permitted, or if modified, as approved by the South Florida Water Management District or any other governmental organization having authority over this system.

Section 2: Owners' Easements of Enjoyment.

Subject to the provisions herein, and the use restrictions contained herein and in the Plat, every Owner shall have a right and easement of enjoyment in and to the Common Area which right and easement shall be appurtenant, and shall pass with the title, of every Lot for the benefit of each Owner, his immediate family, guests, tenants and invitees. Such easement of enjoyment shall include but not be limited to the Owner's right of ingress and egress over the streets, roadways and walkways within the Property for purposes of access to the Owner's Lot. Developer also reserves the aforesaid perpetual non-exclusive easement in favor of Developer, the CDD, the Association and their respective agents, employees, invitees, licensees, successors and assigns. If any grant of any easement in this Declaration would otherwise fail by virtue of the nonexistence of the grantee thereof as of the date of this Declaration, then the CDD automatically shall be deemed to be the attorney-in-fact for such grantee to hold the interest created by such grant of easement until such grantee shall come into existence, at which time the interest created by such grant of easement automatically shall become vested in such grantee.

Section 3: Conveyance or Mortgage of Common Area.

The Common Area cannot be mortgaged or conveyed without the consent of at least two thirds (2/3) of the Owners (excluding the Developer).

Section 4: Extent of Owners' Easements.

The Owners' easements of enjoyment created hereby shall be subject to the following:

A. With respect to the use and enjoyment of the roadways running through and around the Property providing access to each Lot, and the parking areas, if any, the use of the said easement shall be unrestricted and each Owner's rights shall be co-extensive with the rights of all other Owners. Any conveyance or encumbrance of the roadways running through and around the Property providing access to each Lot shall be subject to the Lot Owners' easement over such area.

B. With respect to all other property comprising the Common Area, the Owners' easements of enjoyment shall be subject to the rights of the Association and the Developer as follows:

1) The right of the Association to establish reasonable rules and regulations for usage of Common Area facilities.

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2) The right of the Association to suspend an Owner's voting rights for any period during which any Annual General Assessment levied against his Lot remains unpaid for more than ninety (90) days after its due date, and the right of the Association to suspend the right of an Owner to use Common Area facilities (but not roadways providing access to his Lot) for any period during which any Annual General Assessment levied against his Lot remains unpaid for more than ninety (90) days after its due date, and for a period not to exceed sixty (60) days for any infraction of the Book of Resolutions, it being understood that any suspension for either non-payment of any assessment or infraction of any rules or regulations, of the Association shall not constitute a waiver or discharge of the Owner's obligation to pay the assessment.

3) The right of the Association to mortgage, dedicate or transfer all or any part of the Common Area to any lending institution, public agency, authority or utility for such purposes and subject to such conditions as the Association may deem appropriate; provided that no such dedication or transfer shall be effective without the consent of 2/3 of the Owners as evidenced by an instrument signed by the appropriate officers of the Association certifying the occurrence of a special or regular meeting of Members called for such purpose, of which thirty(30) days prior written notice was sent to each Member, and that the vote of two-thirds of the Members present, either in person or by proxy, was obtained, agreeing to such dedication or transfer.

4) The right of the Association to consent or modify the legal descriptions of the Common Area or exchange any of the Common Area for other land to be used as Common Area.

5) The right of the Association to grant exclusive easements and rights of way over certain parts of the Common Area to Members of the Association when the Association deems it necessary.

6) The right of the Developer, without approval of the Association, or the Membership, to dedicate easements and rights of way over the Common Area in accordance with the terms of this Declaration and to grant such other easements and enter into such other agreements as may be necessary for the development of the Property.

7) The right of the Association to adopt and enforce at any time rules and regulations governing the use of the Common Area and all facilities situated thereon, which shall apply until rescinded or modified as if originally set forth at length in this Declaration.

8) The right of the Association and the Developer to grant to governmental agencies and/or other public or private entities the right to install and maintain roadways, water, sewer, drainage, irrigation, natural gas, electrical, telephone and cable television facilities within the Property.

9) The easements described in Sections 5, 6, 7, 8, 9 and 10 of this Article.

**Section 5: Developer's Right to Grant Easements.**

There is reserved unto the Developer so long as it owns a Lot the right to grant reasonable easements for the installation and maintenance of temporary roads, cable television services, security system services, public utilities and irrigation systems (including the installation of irrigation pumps) on the Common Area in addition to those easements already reserved.

**Section 6: Utility Easements.**

Developer hereby reserves for itself, the CDD, the Association and their respective successors and assigns, easements upon, across, under, through and over all portions of the Property for county and private utility services (including cable television), including, but not limited to: (a) the right of the police to enter upon any part of the Property for the purpose of enforcing the law; and, (b) the right of all such utility companies to install and maintain their equipment and facilities in areas designated by Developer for such purposes and on such terms as Developer may determine. Easements further are reserved for Developer, the CDD, the Association and their respective successors and assigns, upon, across, over, through and under the Common Area and roadways for ingress, egress, installation, replacement, repair and maintenance of all utility and service lines, pipes, wires, ducts, vents, cables and conduits and service systems, public and private, including, but not limited to, water, sewer, drainage, irrigation, telephones, electricity, television, cable or communication lines and systems and similar or related facilities located within the Property or serving any portion thereof, and police powers and services supplied by local, state and federal governments. Utility easements are hereby granted throughout the Property, and across each Lot, as shown on the Plat.

**Section 7: Easement for Governmental, Health, Sanitation and Emergency Services.**

A non-exclusive easement is hereby granted to the CDD and other appropriate governmental authorities and to the appropriate private organizations supplying health, sanitation, police services and any emergency

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services such as fire, ambulance and rescue services, for purpose of ingress and egress over the Common Area and roadways.

Section 8: Access Easement.

The roads, walkways, sidewalks and other rights of way within the Property are hereby declared to be subject to a perpetual non-exclusive easement over and across same for ingress to and egress from the Property in favor of the Owners and tenants of the Lots and their guests, invitees and licensees, the Developer, the CDD, and the Association to be used in a manner consistent with the purposes set forth herein. The Association is hereby granted an access easement across the Lots, for purposes of carrying out the maintenance responsibilities of the Association.

Section 9: Easements for Maintenance.

Easements are hereby reserved in favor of the CDD and the Association upon, across, under, through and over all portions of the Common Areas and roadways for the purpose, as deemed necessary by the CDD of preserving and maintaining the Lots, the Living Units, if applicable, and the Common Areas and roadways within the Property and carrying out its responsibilities pursuant to the CDD's enabling documents; provided, however, that all such activity shall be undertaken in a manner so as to minimize interference with any Owner's use of his Living Unit.

Section 10: Extent of Easements.

The rights and easements created hereby shall be subject to the following: (1) the CDD's right to place any reasonable restrictions upon the use of any roadways within the Property, including, but not limited to, the maximum and minimum speeds of vehicles using the roadways and other traffic and parking regulations; and, (2) Developer's right to give, dedicate or sell all or any portion of the Property to the CDD or any governmental entity, other public agency, authority or utility or private concern for such purposes, and subject to such conditions as may be determined by Developer.

Section 11: Developer's Construction and Sales Activities.

In addition to the property rights in this Declaration to the Developer, as Owner or otherwise, the Developer (and any builder having purchased one or more Lots from Developer, or such builder's assignee) is extended the right to enter upon the Property at any time and in anyway reasonably necessary to allow the Developer or such builder to construct or sell, or promote, in this subdivision, any responsibility of the Developer or builder to Owners in the subdivision, including but not limited to, the right to use the street in front of any model areas designated by the Developer or a builder for parking by visitors and staff, to maintain and show model homes, to have employees in the office, and to use the Common Area. Notwithstanding any other provision in this Declaration, the Developer is irrevocably empowered to sell, lease or rent Lots on any terms to any purchasers or lessees for as long as it owns any Lot.

Section 12: Delegation of Use.

Any Owner may delegate his rights of enjoyment to the Common Area and facilities located thereon to the members of his family, his guests and lessees, subject to such general regulations as may be established from time to time by the Association, but may not transfer said rights apart from the Lot.

Section 13: Damage or Destruction of Common Area by Owner.

In the event any portion of the Common Area is damaged or destroyed by an Owner or any guests, tenants, licensees, agents or members of Owner's family, such Owner does hereby authorize the Association to repair said damaged area. The Association shall repair such damaged area in a good and workmanlike manner in conformity with the original plans and specifications of the area involved, or as the area may have been modified or altered subsequently by the Association. At the discretion of the Association, the amount necessary for such repair shall become an individual assessment upon the Lot of the said Owner.

Section 14: Title to Common Area.

The Developer may retain legal title to the Common Area or any portion thereof until such time as it has completed improvements to the Property. Notwithstanding any provision contained herein to the contrary, the Developer hereby covenants that it shall convey the Common Area to the Association by Quitclaim Deed, free and clear of all encumbrances, other than the easements created under Article IV hereof, and the Association shall accept such conveyance, no later than six (6) months from the termination of the Class B membership. While title to all or a portion of the Common Area is retained by the Developer, the Owners shall have all of the rights and obligations imposed by the Declaration with respect to the Common Area.



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**ARTICLE V - ASSESSMENTS****Section 1: Creation of the Lien and Personal Obligation of Assessments.**

A. Each Owner of a Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association the following:

- 1) Annual General Assessments or charges;
- 2) Special Assessments;
- 3) Individual Lot Assessments;
- 4) Reserve Fund Assessments;

All such Assessments to be established and collected as provided herein.

All such Assessments, together with interest or delinquency fees thereon, reasonable attorneys' fees, whether suit be brought or not, and costs at both trial and appellate levels, incurred by the Association in connection with the collection thereof, shall be a charge and continuing lien upon the Lot against which each such Assessment is made. The lien shall be evidenced by an instrument executed by the Association and recorded among the Public Records of the County, and shall be enforced in the manner provided by law for the enforcement of mechanics' and material men's liens. Each such Assessment, together with interest thereon, costs, and reasonable attorneys' fees as described above, shall also be the personal obligation of the person or entity who was the Owner of the Lot at the time the Assessment first became due and payable. In the case of co-ownership of a Lot, all of such co-owners shall be jointly and severally liable for the entire amount of the Assessment.

B. Subject to the alternate provisions available to the Developer in Section 8 of this Article and notwithstanding any of the provisions of this Declaration, the Articles of Incorporation or the Bylaws to the contrary, the Developer shall be obligated to pay the Assessments described in this Article only with respect to Lots: (i) upon which it has completed construction of a Living Unit as evidenced by the issuance of a Certificate of Occupancy by the County; and, (ii) upon which Developer has retained title thereto for a period of six (6) months after the issuance of said Certificate of Occupancy. In no event shall Developer be obligated to pay Assessments with respect to Lots upon which there are no Living Units, nor with respect to Lots upon which Developer has constructed models to assist in the sales of Lots and/or Living Units to prospective Owners. If Developer so elects, it may provide services and/or materials and receive credit for the value of same toward any Assessments due from it rather than making such contributions as might be due from it in cash.

C. The CDD shall have no obligation whatsoever to pay Assessments of any kind.

**Section 2: Annual General Assessment.**

A. Purpose of Assessment. The Annual General Assessment levied by the Association shall be used for: insurance, maintenance, operation improvement, repair and replacement of the Common Area and facilities, and for the promotion of the recreation, safety, health and welfare of all residents of the Lots and Living Units.

B. Basis for Assessment. Each Lot with a Living Unit which is certified for occupancy and which has been conveyed to an Owner shall be assessed at a uniform rate. To the extent a Lot is conveyed to an Owner without a Living Unit, the Lot shall be assessed at a rate uniform to that of other Lots without Living Units. The first Annual General Assessment shall be based upon an estimate of the operating expenses for the year plus an adequate reserve for anticipated expenses, if the Board elects to provide for such reserve. In the event this Assessment proves insufficient to satisfy such expenses, the Board shall levy a supplementary Assessment in the amount of the deficit. Notwithstanding any other provision herein, the supplementary Assessment shall not require the assent of the members of the Association.

Thereafter, by vote of a majority of the Directors, the Board shall adopt an annual budget for the subsequent fiscal year which shall provide for allocation for expenses in such a manner that the obligations imposed by this Declaration will be met.

C. Maximum Annual General Assessment. Until after December 31, 2002, the maximum Annual General Assessment shall not exceed \$ 1,260.00 per Lot (exclusive of any Special, Individual Lot or Reserve Fund Assessments pursuant to Sections 3, 4 and 5 below). After December 31, 2002, the maximum Annual General Assessment shall not increase by more than fifteen percent (15%) of the prior year's ' Annual General Assessment without a vote of two-thirds (2/3) of each class of Members of the Association who are voting in person or by proxy, at a meeting duly called for this purpose.



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D. Method of Assessment. The Board, by a majority of the Directors, shall fix the Annual General Assessments upon the basis provided herein, except that until the first budget year after the Turnover, the Annual General Assessments shall be established by the Developer. The Board shall set the date such Assessments shall become due. The Board may provide for collection of Assessments annually or in monthly, quarterly or semi-annual installments; provided, however, that upon default in the payment of any one (1) or more installments by any Owner, the entire balance of said Annual General Assessment may be accelerated, as to the said Owner and Lot, at the option of the Board, with the same being declared immediately due and payable in full. The Board may change the budget and level of Assessments at a duly constituted meeting of the Board which occurs after Turnover, provided that written notice containing a copy of the newly adopted budget outlining the Assessment change is sent to all Members at least thirty (30) days in advance of the effective date of the adopted change. For each twelve (12) month period thereafter, commencing on the first day of January (hereinafter called an "Assessment Year"), the Annual General Assessments may be adjusted by vote of the Board at a duly held meeting after giving proper notice as described above.

Section 3: Special Assessments for Capital Improvements.

In addition to the Annual General Assessments authorized above, the Association may levy, in any assessment year, a Special Assessment applicable to that year, for the purpose of defraying, in whole or in part, the costs of any acquisition, maintenance, construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such Assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a special meeting duly called for said purpose. Upon the required affirmative vote by the Members for any such Special Assessment, the Board shall determine the amount required to be paid by each Member which shall be in the same proportion as the Member's share of the expenses for which the Assessment applies, and shall notify the Lot Owner of the amount of their portion of the Special Assessment, and when and where the Special Assessment shall be paid.

Section 4: Individual Lot Assessments.

In the event of an increase in maintenance responsibility due to an alteration in the landscaping or exterior appearance of a Lot in accordance with the terms hereof, the Association may levy an Individual Lot Assessment which shall be limited to that particular Lot. The Association may also impose an Individual Lot Assessment upon any Owner whose use or treatment of Common Areas is not in conformity with the standards as adopted by the Association and which lack of conformity increases the maintenance cost to the Association. Said Individual Lot Assessment shall be treated in all other respects as an Annual General Assessment.

Section 5: Reserve Fund Assessment.

A. The Association may establish a fund for reserves for periodic major maintenance of the Common Areas, and, for the periodic repainting of the exteriors of the Living Units, with a minimum level of reserves to be maintained in perpetuity and replenished from time to time, as necessary, by Assessment (the "Reserve Fund"). The Association may levy, in any Assessment Year, a Reserve Fund Assessment for purposes of funding the Reserve Fund. The amount required to be paid by each Member shall be in the same proportion as the Member's share of the expenses for which the Assessment applies.

B. The Reserve Fund shall be held in an account separate and apart from other Association funds.

Section 6: Insurance.

The Association shall purchase and maintain insurance on all of the Common Area, in accordance with the following provisions:

A. Purchase, Custody and Payment of Policies.

1) All such insurance policies purchased by the Association shall be issued by an insurance company authorized to do business in Florida

2) The name insured on all policies purchased by the Association shall be the Association.

3) All policies purchased by the Association shall provide that payment for losses made by the insurer on the account of casualty to any portion of the Common Area shall be paid to the Association.

4) Any deductible or exclusion under an insurance policy purchased by the Association shall be a common expense, and shall be such sum as is approved by the Board of Directors of the Association.

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**B. Coverage.**

1) The Association shall procure and maintain casualty insurance on all improvements upon the Common Area equal to 100% of the then current replacement cost, as determined annually by the Association. Such coverage shall afford protection against: (a) loss or damage by fire and other hazards covered by standard extended coverage endorsement; (b) such other risks as from time to time shall be customarily insured against. With respect to improvements similar in construction, location and use, including but not limited to, vandalism and malicious mischief, and all other risks normally covered by a standard "All Risk" endorsement, where available.

2) The Association shall purchase and maintain comprehensive general public liability insurance insuring the Association against loss or damage resulting from accidents or occurrences on or about or in connection with the Common Area or any work, matters or things related to the Common Area or this Declaration.

3) Workers compensation insurance shall be maintained as required to meet statutory or regulatory requirements.

4) Officers and directors errors and omissions insurance shall be maintained in such amounts as deemed necessary by the Board of Directors.

5) When appropriate and obtainable, each of the foregoing policies shall waive the insurer's right to: (a) subrogation against the Association; (b) any pro rata clause that reserves to the insurer the right to pay only a fraction of any loss if other insurance carriers have issued coverage upon the same risk; and, (c) avoid liability for a loss that is caused by an act of one or more Directors of the Association or by one or more Owners; and shall provide that such policies may not be cancelled or substantially modified (except for increases in coverage for limits of liability) without at least ten (10) days prior written notice to the Association.

6) The Association shall also be required to maintain fidelity bonds on all officers and employees handling funds of the Association.

**C. Premiums.** Premiums for insurance policies purchased by the Association shall be paid by the Association as a common expense and shall be included within the Annual General Assessments provided for in this Declaration.

**D. Damage and Destruction.**

1) Repair or Reconstruction. Immediately after damage or destruction, by fire or other casualty to all or any part of the Common Area covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of claims arising under such insurance and obtain reliable and detailed estimates of the cost of the repair or reconstruction of the damaged or destroyed Common Area. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Common Areas to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

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

3) No Repair. In the event that it should be determined in the manner described above that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, then the affected portion of the Common Areas shall be restored to their natural state and maintained by the Association in a neat and attractive condition consistent with community standards.

4) Disbursement of Proceeds. If the damage or destruction for which the proceeds of insurance policies held by the Association are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction shall be retained by and for the benefit of the Association and placed in a capital improvements account. In the event no repair or reconstruction is made, any proceeds remaining after making such settlement

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as is necessary and appropriate with the affected Owner or Owners and their Mortgagee(s) as their interest may appear, shall be retained by and for the benefit of the Association and placed in a capital improvements account.

5) Insufficient Funds. If the damage or destruction to the Common Area for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Owners, levy a special assessment. Additional Assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

E. None of the provisions contained in this Section 6 shall apply to Living Units encumbered by the Lender Mortgage.

Section 7: Date of Commencement of Annual General Assessments.

The Annual General Assessments provided for herein shall commence with respect to assessable Lots on the date of the conveyance of the first Lot from the Developer to an Owner. The initial Assessment on any assessable Lot shall be collected at the time of closing on the conveyance to said Owner, and shall be adjusted according to the number of days remaining in the calendar year of said conveyance. Nothing contained herein shall in any way infringe upon the Developer's rights to be excused from all Assessments in exchange for its guaranty to pay operating deficits of the Association in accordance with the provision of Section 8 of this Article.

Section 8: Developer's Guaranty.

Notwithstanding anything herein to the contrary, the Developer, or its successors or assigns, will be excused from payment of the Annual General, Special Individual Lot and Reserve Fund Assessments for Lots owned by it provided that the Developer guarantees to each Owner that the maximum Annual General Assessment as above determined, will not increase until after **December 31, 2002**. During such period as this guaranty shall be in force, the Developer obligates itself to pay to the Association any amount for expenses incurred during that period not produced by the Association from assessments against other Lot Owners at an amount not less than specified above, subject, nevertheless, to the other provisions hereof. Said guaranty does not pertain to or include such portions of Assessments, annual or special, or installments thereunder, required to meet the cost of improvements or betterment to the Common Area, the funding of reserves, if any, or the payment of ad valorem taxes assessed against the Property as a whole. Notwithstanding this guaranty, Developer shall have the right, in its sole discretion, to pay the regular amount of Annual General Assessments for each Lot owned by it, and if there is a deficit, said deficit shall be shared and paid equally by all Lots. Further, notwithstanding anything, herein to the contrary, the above guaranty shall expire and be of no further force and effect upon the Developer's electing to relinquish control of the Association through its designee-directors, as provided in the Bylaws. Developer may extend this guaranty for four (4) six (6) month intervals by notice to the Association at least thirty (30) days prior to the end of the preceding period of guaranty.

Notwithstanding anything in this paragraph to the contrary, if the sale or transfer of any portion of the Property occurs pursuant to foreclosure, or deed in lieu thereof, of the Lender Mortgage, neither Lender nor any successor in interest to Lender shall be deemed guarantors under this paragraph.

Section 9: Duties of the Board of Directors.

A. The Board of Directors of the Association shall prepare budgets and a roster of the Lots and Assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the Assessment for each Assessment Year shall be sent to every Owner subject thereto at least thirty (30) days prior to the commencement of the Assessment Year.

B. Prior to the voluntary sale of a Lot, an Owner may request from the proper officers of the Association a certificate, in recordable form, specifying whether the Owner has paid all Assessments to date. The Association shall furnish the requested certificate signed by an officer stating whether said Assessments have been paid. The Owner requesting the certificate shall pay the Association a reasonable sum to cover the costs of examining records and preparing the certificate. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 10: Effect of Nonpayment of Assessments; Remedies of the Association

Any Assessment not paid within fifteen (15) days after the due date shall be delinquent, and shall bear interest from that date at the highest rate allowed by law. The Association may bring an action at law against the Owner personally obligated to pay the Assessment or foreclose the lien described in Section 1 of this Article. No Owner may waive or otherwise avoid liability for the Assessments provided for herein by non-use of the Common Area or abandonment of his Lot. In addition, should the Association find it necessary to

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employ an attorney or institute legal action against any Owner in order to collect unpaid Assessments, the Owner shall be obligated for the payment of all of the Association's costs in connection with said action, including, but not limited to, reasonable attorneys' fees, whether suit be brought or not, and court costs at all trial and appellate levels. In the event a judgment is obtained, such judgment shall include interest on the Assessments and a reasonable attorney's fee to be fixed by the court together with costs incident to the action.

Section 11: Subordination of the Lien to Mortgages.

A. The lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage representing a first lien on any Lot.

B. Sale or transfer of any Lot shall not affect the Assessment lien; provided, however, the sale or transfer of any Lot pursuant to foreclosure shall extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer unless such Assessments are secured by a claim of lien for Assessments that is recorded prior to the recording of such mortgage. No sale or transfer of any type shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

C. It is the express intent of this Section, notwithstanding any other provisions hereof, to subordinate the Assessment lien referred to above only to first mortgages executed in favor of institutional mortgagees which shall include banks, savings and loan associations, insurance companies and mortgage bankers. In no event shall any second mortgage or other junior mortgage take priority over the Assessment lien.

Section 12: Exempt Property.

All Common Area shall be exempted from the Assessments, charges and liens created herein.

**ARTICLE VI - USE OF PROPERTY**

Section 1: Protective Covenants.

A. Residential Use. All property designated as a Lot shall be used, improved and devoted exclusively to residential use. No business, profession or trade of any type, other than rental, including transient rental, of a Lot or Living Unit, shall be conducted on any portion of the Property, but this prohibition shall not be applicable to Developer with respect to its development of the Property, construction and sale of Lots and Living Units, the use of Lots and Living Units as model units or the use of any portion of the Property as parking areas.

B. Common Area. The Common Area shall be maintained and operated by the Association as private property for the benefit of the parties described herein and on the terms and conditions set forth herein.

Section 2: Rentals.

A. All lessees of a Lot shall comply with all requirements of the Declaration, Articles of Incorporation and Bylaws of the Association. Notwithstanding the rental of his/her Lot, the liability of the Owner under the Declaration shall continue. No Owner (except for the Developer) may lease a Lot or Living Unit without the prior written approval of the Association. The Association may require that a substantially uniform form of lease be used by all Owners, as such form may be approved by the Board. All leases shall provide that the Association may terminate the lease upon the tenant's default of any of the provisions of this Declaration, the Land Use Documents or the Book of Resolutions. The Association shall approve or disapprove a lease within ten (10) days after the Board meeting immediately following submission of a complete and accurate request for approval, which request shall be accompanied by a copy of the form lease and such other information as the Board may reasonably require. If the Association fails to approve or disapprove the tenancy within the ten (10) day period, the lease shall be deemed approved. In connection with each lease, the Association may require all Owners to place in escrow with the Association a security deposit in an amount to be determined by the Association, which may be used by the Association to repair any damage to the Common Areas or other portions of the Property resulting from acts or omission of the tenants. Any balance remaining from the security deposit, less an administrative charge as may be reasonably determined by the Association, shall be returned to the Owner within thirty (30) days after the Association has been advised in writing by the Owner that the tenant has vacated the Lot. Notwithstanding anything to the contrary in this Paragraph, the provisions of this Section 2 shall not be applicable in any way to the Developer, so that the Developer may lease any Lot or Living Unit within the Property without restriction or prior approval of any entity, including the Association.

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**Section 3: Maintenance of Living Units and Lots.**

A. Each Living Unit and Lot and all improvements therein, shall be maintained by each respective Owner in good order and repair and free of debris. No weeds, underbrush or other unsightly growth shall be permitted to grow or remain upon any portion of the Property, and no refuse or unsightly objects shall be allowed to be placed or permitted to remain anywhere thereon. All lawns, landscaping and sprinkler systems, if any, located in the rear of each Lot shall be kept by the Owner in a good, clean, neat and attractive condition. The Lots and any Living Units thereon shall be kept in good, safe, clean, neat and attractive condition by the Owner and all buildings, structures and improvements including roofs, doors and windows thereon shall be maintained by the Owner in a finished, painted and attractive condition. The cost of any hazard, flood and windstorm insurance, as applicable, incident to each Living Unit shall be borne by each Owner thereof. In the event an Owner of any Living Unit or Lot shall fail to maintain the said Living Unit or Lot as provided herein, the Association, after notice to the Owner, shall have the right to enter upon the Living Unit or Lot to correct, repair, maintain and restore the Living Unit or Lot. All costs related to such correction, repair or restoration shall be the personal obligation of the Living Unit Owner or Lot Owner, as applicable, and shall become a lien against the subject Living Unit or Lot with the same force and effect of a lien created by the said Owner's failure to pay assessments when due. Such entry by the Developer or the Association or their agents shall not be a trespass and by acceptance of a deed for a Lot, or by recordation of these Covenants and Restrictions, such party has expressly given the Developer and the Association the continuing permission to do so, which permission, may not be revoked.

B. The Association shall be responsible for the maintenance, repair and restoration of all lawns and sprinkler systems in the front of each Lot, as well as the pruning and cutting of all trees and shrubbery in the front of each Lot. In addition, the Association shall be responsible for periodic painting of the Living Units when the Association deems appropriate. Except as set forth in this Paragraph, the Association shall not have exterior maintenance responsibilities, periodic or otherwise, for Living Units or Lots. The Association shall be responsible for entering into a contract for the servicing of the alarm systems located in each of the Living Units, and shall remit the payment due thereunder as and when due. Each Owner shall pay for the alarm monitoring service as a portion of their Assessment payable to the Association.

C. The Association shall have a right and easement in and to the land comprising each Lot in order to maintain same in accordance with this Section, and said right and easement shall be a covenant running with the land as to each Lot.

D. Notwithstanding anything set forth herein to the contrary, the CDD shall be responsible for the maintenance of the medians, if any, within any roadway within the Property.

**Section 4: Non-Responsibility of the County.**

In no event shall the County be obligated to carry out any of the maintenance obligations of the Association or the CDD, including, but not limited to, maintenance and up keep of the roadways, unless such obligations are undertaken by way of a resolution of the Board of County Commissioners of the County.

**Section 5: Management Services.**

The Association may contract for the management of all or any part of the Common Area and any other association duties for purposes of carrying out all or a portion of the maintenance services provided for in this Declaration. Any such contract may not exceed a term of three (3) years and shall permit termination by either party at will and without payment of any fee for such termination upon ninety (90) days written notice by one party to the other.

**Section 6: Utility Services.**

The Association may contract with public or private utility companies for purposes of supplying utility services to the Property and may assess the costs and expenses charged by such utility companies as part of the Assessments set forth in this Declaration.

**Section 7: Architectural Control.**

A. No building, fence, wall, antennas or other structures, or landscaping alterations or additions, shall be commenced, erected or maintained upon any Living Unit or Lot, nor shall any exterior addition to, change or alteration, including the changing of the existing color of paint or of roofing materials thereon, be made or undertaken unless approved in writing by the Board of Directors of the Association, or its designated review committee composed of three (3) or more representatives appointed by the Board (the "Committee"), and all appropriate governmental authorities having jurisdiction there over. The Committee shall

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have absolute and complete discretion in approving or disapproving any request submitted to it and may base its decision on any ground it, in its sole discretion, deems sufficient.

B. All requests for approval of such plans and specifications shall be mailed or delivered to such address as shall from time to time be designated by the Association.

C. Notwithstanding anything herein to the contrary, Developer shall have the right to appoint the members of the Committee until the first to occur of the events specified in **Article III - Section 2** hereof.

## ARTICLE VII - GENERAL PROVISIONS

### Section 1: Duration.

The covenants, conditions and restrictions of this Declaration shall run with and bind the Property and shall inure to the benefit of and be enforceable by the Developer, the Association, or the Owners, their respective legal representatives, heirs, successors and assigns, for a term of **thirty (30) years** from the date this Declaration is recorded. After the original thirty (30) year period, the covenants and restrictions contained in this Declaration shall be automatically extended for successive periods of ten (10) years unless prior to the end of such thirty (30) year period, or each successive ten (10) year period, an instrument signed by the then Owners of three-fourths (3/4) of the Lots agreeing to terminate the covenants and restrictions at the end of such thirty (30) year or ten (10) year period has been recorded in the Public Records of the County. No such agreement to terminate the covenants and restrictions shall be effective unless made and recorded at least ninety (90) days in advance of the effective date of such change. This section may not be amended.

### Section 2: Modifications.

Developer reserves the right to alter, amend, modify, change, revoke, or rescind or cancel any or all of the restrictive covenants contained in the Declaration, or hereinafter included in any subsequent Declaration. Any such subsequent or modified Declaration shall conform with all HUD/VA requirements and all other requirements of the County.

### Section 3: Amendment.

A. Subject to the provisions of Paragraphs B, C, D, E and F of this Section, the provisions of **Article VII, Section 2** above, and HUD/VA approval as provided for in **Article VIII - Section 27** hereof, this Declaration may be amended by an instrument first approved by a majority of the Board of Directors and subsequently approved and signed by persons or entities representing **sixty-seven percent (67%)** of the total votes outstanding, at said time. To be effective, all amendments must be filed in the Public Records of the County. Unless otherwise specifically recited in said amendment, the effective date thereof shall be the date same is filed in the Public Records of the County.

B. Notwithstanding anything herein to the contrary until the first to occur of the events specified in **Article III, Section 2**, this Declaration may only be amended with the written consent of Developer, unless said requirement is waived in writing by Developer prior thereto.

C. Notwithstanding anything herein to the contrary, until such time as the deeds to **fifty-one percent (51 %) of the Lots** are recorded among the Public Records of the County, Developer shall have the absolute and unconditional right to amend or modify this Declaration by recordation of an instrument containing such amendment or modification without the joinder of any Owner or the holder of any mortgage on any Lots, provided that no such amendment or modification by Developer shall materially affect any Lots or the rights of any Owner or mortgagee. Such amendment needs to be executed and acknowledged by the Developer only, and need not be approved by the Association, Lot Owners, lienors and mortgagees.

D. For so long as the Property is encumbered by the Lender Mortgage, this Declaration shall not be amended without the written joinder and consent of the Lender attached to such amendment.

E. In addition to the foregoing, any amendment which shall have the effect of altering the permitted Surface Water or Stormwater Management System, beyond the maintenance of the system in its original condition, must have the prior approval of the South Florida Water Management District and the CDD.

F. No amendment shall alter the subordination provisions contained in this Declaration without the prior approval of any mortgagee enjoying such protection.

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**Section 4: Temporary Committees.**

The Developer, prior to Turnover of the Association, at its sole discretion, may create temporary committees for the purpose of aiding with the transition of the Association from Developer control to control by the membership.

**Section 5: Enforcement.**

The Association, the CDD, any Owner or the Developer, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, as the same may be amended. The Association or any Owner may recover sums due for damages, injunctive relief, or any combination thereof, including attorneys' fees, whether suit be brought or not, and court costs at trial and appellate level. The Association shall have the right to suspend the voting rights of an Owner for any period during which any Annual General Assessment levied against his Lot remains unpaid for more than ninety (90) days after its due date. Furthermore, the Association shall have the right to suspend use of Common Areas (but not the roadways providing access to an Owner's Lot) for any Owner for any period during which any Annual General Assessment levied against this Lot remains unpaid for more than ninety (90) days after its due date, and for a period not to exceed sixty (60) days for any infraction of the Book of Resolutions. Failure of the Association, any Owner or the Developer to enforce any covenants, restrictions or provisions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

In addition to the foregoing rights of enforcement, the South Florida Water Management District shall have the right to enforce, by a proceeding in law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation and repair of the Surface Water or Stormwater Management System.

**Section 6: Severability.**

Invalidation of any one (1) or more of the covenants, conditions or restrictions contained in this Declaration, any amendments hereto, by judgment or court order shall in no way effect any other provision hereof, all of which shall remain in full force and effect as if said invalidated provision had never existed.

**Section 7: Notice.**

Any notice required to be sent to any person pursuant to any provision of these covenants, conditions or restrictions, will be effective if such notice has been deposited in the United States mail, postage prepaid, addressed to the person for whom it is intended at his last known place of residence, or such other address as may be furnished to the Secretary of the Association. The effective date of the notice shall be the date of mailing.

**Section 8: Special Exceptions and Variations.**

Unless the written consent of the Association is first obtained, no Owner shall file a request for a zoning variation, special exceptions or zoning changes affecting or relating to the Property.

**Section 9: Conflict.**

This Declaration shall take precedence over conflicting provisions in the Articles of Incorporation and Bylaws of the Association and the Articles shall take precedence over the By laws.

**Section 10: Mortgagee's Notice of Default.**

An institutional first mortgagee who provides written request to the Association (such request to state the name and address of such first mortgagee, and identify the Lot or Living Unit) will be entitled to timely written notice of any delinquency in the payment of Assessments or other charges owed by an Owner of a Lot or Living Unit subject to the mortgage of such first mortgagee or default by or failure of such Owner to comply with any provisions of the Land Use Documents, where such delinquency or default has continued for a period of sixty (60) days or more.

**Section 11: Singular, Plural and Gender.**

Whenever the context so permits, the use of the singular shall include the plural and the plural shall include the singular, and the use of any gender shall be deemed to include all genders.



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Section 12: Captions.

The captions, if any, for each Article or Section of this Declaration are for convenience and reference only and in no way define, describe, extend or limit, the scope or intent of this Declaration or the intent of any provision hereof.

Section 13: Effective Date.

This Declaration shall become effective upon recordation in the Public Records of the County.

Section 14: Construction.

The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of the Property.

Section 15: Fines.

In addition to all other remedies, and to the maximum extent lawful, in the sole discretion of the Board of Directors of the Association, a fine or fines may be imposed upon an Owner for failure of an Owner to comply with this Declaration or with any rule or regulation, provided the following procedures are adhered to:

A. Notice; Hearing: The Association shall notify the Owner of the infraction or infractions. Included in the notice shall be the date and time of a special meeting of a committee (the "Committee") of at least three members appointed by the Board of Directors at which time the Owner shall present reasons why fines should not be imposed. At least fourteen (14) days notice of such meeting shall be given. The members of the Committee may not be officers, directors, or employees of the Association, or the spouse, parent child brother or sister of an officer, director or employee. If the Committee, by majority vote, approves the fine, it shall be imposed subject to the requirements set forth below. The requirements, of this Paragraph shall not apply to the imposition or suspension of fines upon any Owner because of the failure of the Owner to pay Assessments or other charges when due (a "Payment Failure"). In the event of a Payment Failure, the Board of Directors may impose the fines as set forth below without recourse to the notice and hearing procedures of this Paragraph.

B. Amounts of Fines: The Committee or the Board of Directors (if either of its or such panel's findings are made against the Owner) may impose special assessment fines against the Lot as follows: a fine not to exceed \$100.00 per violation. A fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing, except that no such fine shall exceed \$1,000.00 in the aggregate. The Board may also suspend the voting rights of a member for the nonpayment of Annual General Assessments that are delinquent in excess of 90 days.

C. Payment of Fines: Fines shall be paid not later than ten (10) days after notice of the imposition or Assessment of the penalties.

D. Collection of Fines: Fines shall be treated as a Special Assessment subject to the provisions for the collection of Assessments as set forth herein.

E. Application of Fines: All monies received from fines shall be allocated as directed by the Board of Directors.

F. Remedies: These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; however, any fine paid by the offending Owner shall be deducted from or offset against any damages which the Association may otherwise be entitled to recover by law from such Owner.

Section 16. Liens.

All liens against a Lot, other than for permitted mortgages, taxes or special assessments, shall be satisfied or otherwise removed within thirty (30) days of the date the lien attaches. All taxes and special assessments upon a Lot shall be paid before become delinquent.

A. Notice of Lien: A Lot Owner shall give notice to the Association of every lien upon his Lot, other than for permitted mortgages, taxes and special assessments, within five(5) days after the attaching of the lien.

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B. Notice of Suit: Lot Owners shall give notice to the Association of every suit or other proceeding which will or may affect title to his Lot or any part of the Property; such notice to be given within five (5) days after the Lot Owner receives notice thereof.

C. Failure to Comply: Failure to Comply with this article concerning liens will not affect the validity of any judicial sale.

### ARTICLE VIII - SPECIFIC PROVISIONS

#### Section 1: Fencing.

No fences or any similar type of enclosures may be erected on any Lot without the approval of the Board unless constructed by a builder in accordance with plans approved by the Developer. No chain link fence shall be permitted on any Lot or portion thereof, except for temporary construction purposes.

#### Section 2: Swimming Pools.

No swimming pools shall be constructed on any Lot or portion thereof without the prior written approval of the Board.

#### Section 3: Tennis Court.

No tennis court shall be constructed on any Lot or portion thereof.

#### Section 4: Required Setbacks.

Every Living Unit on a Lot shall comply in all ways with the Building Code of the County. No building, roof or wall on any Lot shall be closer to the boundaries of the Lot (whether on the ground or in a vertical plane with the ground) than the setback lines established by the Building Code, or as modified by an appropriate variance granted by the County, as minimum setback requirements for front, side and rear yards.

#### Section 5: Exemption for Developer.

For so long as the Developer owns any portion of the Property, it shall be exempt from the provisions of this Article.

#### Section 6: Antennas.

Television or radio antennas or towers, multi-party use electromagnetic receivers or transmitters, or similar devices shall be prohibited from being placed or constructed on any portion of the Property, except in the event that Developer or the Association contracts with a cable television service which requires antennas or such other similar devices to provide cable television to the Living Units. Notwithstanding the foregoing, satellite dishes with a diameter of no greater than twenty-four inches (24") shall be permitted provided the Association shall have the right to approve the location of all satellite dishes on the Lots.

#### Section 7: Painting.

No exterior of a Living Unit or a portion thereof, whether now or hereafter constructed, shall be painted except in the same color as selected by the Developer, unless a different color is approved by the Board.

#### Section 8: Garage Doors.

In order to maintain a harmonious and aesthetic appearance; the garage doors affixed to any Living Unit shall remain closed except when in actual use to allow ingress and egress into the garage.

#### Section 9: Tree Removal Restrictions.

Trees situated on any Lot between setback lines and the property lines having a diameter of six inches or more measured four feet from ground level may not be removed without prior approval of the Board. All requests for approval of tree removal shall be submitted to the Board along with the plans showing generally the location of such tree(s). This restriction shall not apply to the Developer in the course of construction, sales or maintenance of improvements upon the Property. Anyone violating the provisions of this Section will be required to replace such trees with trees of like kind, size and condition within thirty (30) days after demand by the Association. If the Owner fails or refuses to replace the trees as demanded, the Association may cause suitable replacements to be planted and the cost thereof shall be a lien against the Owner's Lot. An easement of

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ingress and egress over said Lot is hereby granted to the Association, its agents and employees to enable it to comply with this Section.

**Section 10: Construction Scheduling.**

No outdoor construction or development activity of any kind (other than minor do-it-yourself repairs) will be permitted within the Property on Sundays or legal holidays without the express prior written consent of the Board. This restriction shall not apply to the Developer in the course of its construction, sales or maintenance of improvements upon the Property.

**Section 11: Renewable Resource Devices.**

Nothing in this Declaration shall be deemed to prohibit the installation of energy devices based on renewable resources (e.g., solar collector panels); provided however, that same shall be installed only in accordance with the reasonable standards adopted from time to time by the Board. Such standards shall be reasonably calculated to maintain the aesthetic integrity of the Property without making the cost of the aforesaid devices prohibitively expensive.

**Section 12: Temporary Structures.**

No structure of a temporary character, trailer, shed, tent, shack, barn or other outbuilding shall be placed, erected or used at any time, temporarily or permanently, on the Property, except for the use of construction trailers, sales offices and storage facilities by Developer during any construction on the Property.

**Section 13: Windows and Glass Doors.**

No Owner shall be permitted to place tin foil or other covering (except for draperies, blinds, or other window treatment as same are conventionally defined by decorators) upon any windows or sliding glass doors in his Living Unit, nor shall said Owner be permitted to tint any windows or sliding glass doors in his Living Unit without first receiving the written approval of the Board of Directors.

**Section 14: Oil and Mining Operations.**

No oil drilling, development operations, refining, quarrying or mining operations of any kind shall be permitted on the Property, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted on the Property. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on the Property.

**Section 15: Livestock and Poultry.**

No animals, livestock or any other animal not commonly considered Household Pets shall be raised, bred or kept in or on any Living Unit or Lot. No more than two (2) Household Pets shall be kept in or on any Living Unit or Lot at any one time, except that more than two (2) fish will be permitted. No pit bull dogs will be allowed. Under no circumstances shall any commercial or business enterprises involving the use, care or treatment of animals be conducted on the Property or in a Living Unit. All permitted Household Pets shall be kept on a leash when not on or in the Living Unit and no Household Pets shall be allowed to roam unattended. An Owner shall immediately pick up and remove any solid animal waste deposited by his pet(s) anywhere on the Property, including his Lot. Each Owner who chooses to keep a pet hereby agrees to indemnify the Association and the Developer and hold each of them harmless against any loss or liability of any kind or character whatsoever arising from or growing out of his having an animal on the Property.

**Section 16: Waste and Rubbish Disposal.**

No Living Unit shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except in sanitary containers or as required by the Association or the applicable ordinances of the County. Building materials during the course of construction of any approved structure by Developer will be permitted to be kept on the Lot. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

**Section 17: Nuisances.**

No noxious or offensive activity shall be carried on, in or upon any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No flammable, combustible or explosive fluid or chemical substance shall be kept in or upon any Lot except such as are required for normal household use and same shall be kept within the Living Unit. No Owner shall permit or suffer anything to be done or kept in or upon his Lot which will increase the rates of insurance as to other Owners, other Lots and

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Living Units and the Common Area. This restriction shall not apply to activities conducted by the Developer in the construction, sale or maintenance of improvements on the Property.

**Section 18: Commercial Trucks, Trailers and Boats.**

In order to maintain the high standards of the subdivision: with respect to residential appearance, no trucks or commercial vehicles, boats, house trailers, unlicensed or inoperable vehicles, boat trailers or trailers of every other description, including campers or any vehicle registered RV, shall be permitted to be parked or stored at any place on the Property except during the period of construction by the Developer, nor shall any motor vehicles be parked on any portion of the Property for the purpose of repairing or maintaining the same. The prohibitions in this Section shall not apply to the temporary parking of trucks and commercial for pick-up and delivery and other commercial services, or to pick-up trucks or sports utility vehicles for personal use of any Owner to a maximum of three-quarter (3/4) ton capacity.

**Section 19: Real Estate Offices.**

No Living Unit shall be used for a real estate office unless written approval of the Developer or the Committee has been received, except that Developer shall be able to build and maintain sales models and offices.

**Section 20: Signs.**

In order to insure a harmonious effect as to the overall appearance of the Property, no signs of any type shall be displayed on any Lot where same is visible to the outside thereof, or on any portion of the Property. This shall include, but not limited to advertisements, solicitations, "For Sale" and "For Rent" signs. No freestanding signs are allowed. Notwithstanding anything to the contrary contained herein, this prohibition shall not apply to the Developer, its successors or assigns, so long as the Developer retains title to any Lot.

**Section 21: Outdoor Clothes Drying.**

Outdoor clothes drying activities are hereby prohibited and no such activities shall be conducted on any portion of any Lot or the Common Area.

**Section 22: Change of Elevation.**

No sod or topsoil shall be removed from any portion of a Lot without permission from the Developer, the Board of Directors or the Committee. No change in elevation of any Lot shall be made without protecting adjoining Lots from surface water drainage caused by the change.

**Section 23: Enforcement.**

In addition to the enforcement provisions provided in Article VII - Section 5 above, the Association is hereby granted an easement over the Lot of each Owner for the purpose of enforcing the provisions of this Article, and may go upon the Lot of said Owner to remove or repair any violation of these provisions. In the event that the Association, after notice to the Owner of any violation and the Owner's failure to cure the same, does in fact exercise its right to cure said violation, all costs incident to said action by the Association shall become the personal obligation of the Owner, and shall be imposed as a lien against his lot in the same manner as if said sums represented monies due for unpaid Assessments.

**Section 24: Utility Easements.**

Developer hereby grants a perpetual right and easement in and to the Property to any utility company which provides its services to the Property in order to install, maintain, repair or replace same, and said right and easement shall be a covenant running with the land. As used herein, the term "utility company" shall include, but not be limited to companies providing water, sewer, electricity, telephone or cable television services.

**Section 25: HUD/VA**

For so long as there is a Class B membership, the following actions will require the approval of either the Federal Housing Administration or the Veterans Administration if any mortgage encumbering a Lot within the Property is guaranteed or insured by either such agency: (a) annexation of additional properties; (b) mergers and consolidations; (c) mortgaging or dedication of Common Area; and, (d) dissolution or amendment of this Declaration. Such approval, however, shall not be required where the amendment is made to correct errors, omissions or conflicts or is required by any institutional lender so that such lender will make, insure or guarantee mortgage loans encumbering the Lots, or is required by any governmental authority. Such approval

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shall be deemed given if either agency fails to deliver written notice of its disapproval of any amendment to the Developer or to the Association within twenty (20) days after a request for such approval is delivered to the agency by certified mail, return receipt requested, or equivalent delivery, and such approval shall be conclusively evidenced by a certificate of Developer or the Association that the approval was given or deemed given.

Section 26: Skate Board Ramp, Basketball Hoops, Go Peds.

No skate board ramp or basketball hoops shall be allowed on the Property without written permission of the Board of Directors. No "Go Peds" shall be permitted on the Property.

Section 27: Real Property Tax Credit.

No Owner shall receive a credit on the real property tax bill applicable to his or her Lot because of the roadways and drainage system provided for herein.

Section 28: The CDD.

Developer intends to have the Property (or a portion thereof) become part or all of the CDD. The CDD shall have the authority to plan, establish, acquire, construct and/or reconstruct, enlarge or extend, equip, operate and maintain systems and facilities for the following basic infrastructures:

(A) Water management and control for the lands within the CDD and connection of some or any of such facilities with roads and bridges;

(B) Water supply, sewer and wastewater management, or any combination thereof, and construction and operation of connecting intercepting or outlet sewers or sewer mains and pipes and water main, conduits, or pipelines in, along and under any street, alley, highway or other public place or way, and to dispose of any effluent, residue or other byproducts of such system or sewer system;

(C) Bridges or culverts that may be needed across any drain, ditch, canal, floodway, holding basin, excavation, public highway, tract, grade, fill or cut, and roadways over levies and embankments and to construct any and all of such works and improvements across, through, or over any public right-of-way, highway, grade, fill, or cut; and,

(D) Roadways.

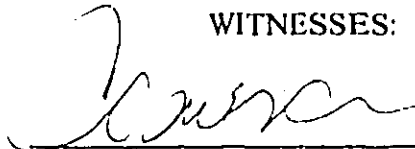
In addition to these general powers, the CDD may obtain from the local government the power to regulate parks, fire prevention and control, schools, security, mosquito control and waste collection and disposal, and any other power permitted under Section 190, Florida Statutes.

Section 29: WARRANTIES.

DEVELOPER WARRANTS THE IMPROVEMENTS TO THE COMMON AREA FOR A PERIOD OF ONE (1) YEAR AFTER COMPLETION OF THE IMPROVEMENTS AND WILL REPAIR OR REPLACE, AS NECESSARY, ANY DEFECTIVE IMPROVEMENT DURING THE WARRANTY PERIOD. THIS DEVELOPER WARRANTY IS THE ONLY EXPRESS WARRANTY GIVEN AND IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. TURNOVER OF THE ASSOCIATION SHALL NOT EXTEND ANY WARRANTY PROVIDED FOR HEREIN.

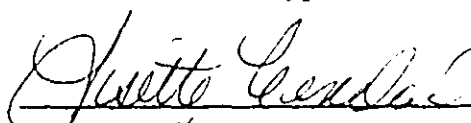
IN WITNESS WHEREOF, the undersigned Developer has hereunto set its hand and seal this 11<sup>th</sup> day of JANUARY, 2002.

WITNESSES:



CECERO E. LLANO

Print or Type Name



Lisette Cendal

Print or Type Name

CENTURY PARK AT FLAGLER, LTD.,  
a Florida Limited Partnership


BY ITS GENERAL PARTNER:  
CBG MANAGEMENT CORP.,  
a Florida Corporation

By:   
REINALDO SANCHEZ, President

The foregoing Joinder and Consent was acknowledged before me this 11<sup>th</sup> day of January, 2002, by REINALDO SANCHEZ as the President of CBG MANAGEMENT CORP., a Florida Corporation, as the General Partner of CENTURY PARK AT FLAGLER, LTD., a Florida Limited partnership on behalf of the corporation and partnership, who produced Personally known as identification.

CRISTINA RICO

[NOTARIAL SEAL]

 **CRISTINA RICO**  
Notary Public - State of Florida  
My Commission Expires Oct 10, 2006  
Commission # 00064165  
Bonded By National Notary Assn.

**TRACT 16, IN BLOCK 4, OF RICHARDSON-KELLERT COMPANY'S PLAT, SECTION 4, TOWNSHIP 54 SOUTH, RANGE 40 EAST, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 4, PAGE 100, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, LESS THAT PORTION OF TRACT 16 LYING WITHIN THE EAST 40 FEET OF SAID SECTION 4, TOWNSHIP 54 SOUTH, RANGE 40 EAST.**

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JOINDER AND CONSENT

The Property is presently encumbered by a Mortgage in favor of COLONIAL BANK, an Alabama Banking Corporation (the "Mortgagee") which Mortgage was recorded in Official Records Book 18715 at Page 1954 of the Public Records of Miami-Dade County, Florida (the "Mortgage").

Mortgagee hereby certifies that it is the holder of the Mortgage and hereby joins in and consents to this Declaration of Covenants and Restrictions for THE ENCLAVE AT CENTURY PARC (the "Declaration"). The Mortgagee or its successors and/or assigns in interest by virtue of foreclosure of the Mortgage or the taking of a deed in lieu thereof shall not assume any responsibility or liability under this Declaration unless specifically assumed by an instrument in writing and recorded in the Public Records of Miami-Dade County, Florida.

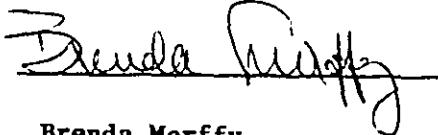
IN WITNESS WHEREOF, the undersigned has caused these presents to be duly executed this 11 day of January 2002.

Signed sealed and delivered presence of:



Sara L. Fonseca

Print or Type Name



Brenda Morffy

Print or Type Name

COLONIAL BANK  
an Alabama Banking Corporation

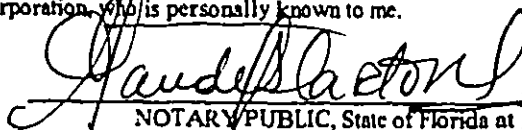
By: 

Carlos A. Martinez,  
As Its: ~~Vice President~~

[CORPORATE SEAL]

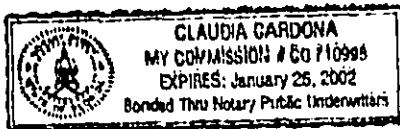
STATE OF FLORIDA            )  
  ) ss  
COUNTY OF MIAMI-DADE    )

The foregoing Declaration of Covenants and Restrictions was acknowledged before me this 11 day of January, 2002, by Carlos A. Martinez as a Vice President of, COLONIAL BANK, an Alabama Banking Corporation, on behalf of the corporation, who is personally known to me.



NOTARY PUBLIC, State of Florida at Large

Print or Stamp Name of Notary  
My Commission expires:





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**DISCLOSURE STATEMENT**

All of the residential dwelling units in **THE ENCLAVE AT CENTURY PARC** are also located within the boundaries of the Century Parc Community Development District (hereinafter called THE "CDD"). The CDD is a local unit of special-purpose government organized and existing under the laws of the State of Florida and the Home Rule Charter of Miami-Dade County, Florida. The primary purpose of the CDD is to finance, construct and maintain some or all of the public infrastructure (i.e., water system, sewer system, drainage system and roadway system) within **THE ENCLAVE AT CENTURY PARC**. The water system and the sewer system will be deeded to the Miami-Dade County Water and Sewer Department. The drainage system and the roadway system will be owned, operated and maintained by the CDD.

The current plan is for the CDD to issue tax-exempt bonds to construct approximately \_\_\_\_\_% of the public infrastructure identified above. Each home within **THE ENCLAVE AT CENTURY PARC** will be assessed approximately \$ \_\_\_\_\_ per year to retire the debt. In addition to the assessment to retire the debt, each home within **THE ENCLAVE AT CENTURY PARC** will be assessed a pro rata share of the cost to maintain the drainage system and the roadway system. These special assessments will appear on the County real estate tax bill and will be paid at the same time as the County taxes are paid.

The Board of Supervisors of the CDD is elected by the landowners within the CDD. The Board is required to advertise its meetings in advance and all Board meetings are required to be open to the public. The Board is required to prepare a budget each fiscal year and adopt same in an open, public meeting. All landowners are invited to attend Board meetings and participate in the public process.

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EXHIBIT "B"

**ARTICLES OF INCORPORATION**  
**OF**  
**THE ENCLAVE AT CENTURY PARC HOMEOWNERS' ASSOCIATION,**  
**INC.**  
**A NONPROFIT CORPORATION**

*The Undersigned incorporator, desiring to form a not-for-profit corporation under Chapter 617, Florida Statutes, hereby adopts the following Articles of Incorporation.*

ARTICLE I            NAME

The name of the corporation ("Corporation") shall be:

THE ENCLAVE AT CENTURY PARC HOMEOWNERS' ASSOCIATION, INC.

ARTICLE II            PRINCIPAL OFFICE

The principal place of business and the mailing address of this corporation shall be:

7270 NW 12 Street, Suite 410  
Miami, FL 33126

ARTICLE III            PURPOSE

The corporation is organized to engage in all lawful acts or activities not for pecuniary profit for which Florida not-for-profit corporations may be organized, so far as permitted by Code Section 501(c)(3), including the following: homeowners' association. All references to

"Code" are to the Internal Revenue Code of 1986 as amended or to corresponding provisions of future federal tax legislation.

ARTICLE IV      MANNER OF ELECTION

The affairs of the Corporation shall be managed by a Board of Directors consisting of no less than (3) three directors. The number of directors may be increased or decreased from time to time in accordance with the Bylaws of the Corporation, but may never be less than (3) three. The election of directors shall be in accordance with the Bylaws. The directors shall be protected from personal liability to the fullest extent permitted by law.

ARTICLE V      INITIAL DIRECTORS/OFFICERS

The name and street address of the initial directors are:

Luis Rabell  
7270 NW 12 Street  
Suite 410  
Miami, FL 33126

Cesar Llano  
7270 NW 12 Street  
Suite 410  
Miami, FL 33126

Keyla Alba-Reilly  
7270 NW 12 Street  
Suite 410  
Miami, FL 33126

ARTICLE VI      INITIAL REGISTERED OFFICE AND AGENT

The street address of the initial registered agent of the corporation is 7270 NW 12 Street, Suite 410, Miami, FL 33126, and the name of the Corporation's initial registered agent at that address is Keyla Alba-Reilly.

ARTICLE VII INCORPORATOR

The names and street addresses of the incorporator is:

Keyla Alba, Esq.  
7270 NW 12 Street,  
Suite 410  
Miami, FL 33126

ARTICLE VIII BYLAWS

The power to adopt, alter, amend or repeal bylaws shall be vested in the Board of Directors and the shareholders, except that the Board of Directors may not amend or repeal any bylaw adopted by the shareholders if the shareholders specifically provide that the bylaw is not subject to amendment or repeal by the Directors.

ARTICLE IX AMENDMENTS

The Corporation reserves the right to amend, alter, change or repeal any provision in these Articles of Incorporation in the manner prescribed by law, and all rights conferred on shareholders are subject to this reservation. These Articles may be amended prior to the issuance of shares of the Corporation by the unanimous approval or consent of the Board of Directors. Thereafter, every amendment shall be approved by the Board of Directors, proposed by them to the shareholders, and approved at a shareholders' meeting by the holders of the majority of the shares entitled to vote on the matter or in such other manner as may be provided by law.

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IN WITNESS WHEREOF, the undersigned incorporator has executed these articles of incorporation this 5th day of October, 2001.

[Signature]  
Signature/Incorporator

10/5/01  
Date

ACCEPTANCE OF APPOINTMENT AS REGISTERED AGENT

*Having been named as registered agent and to accept service of process for the above stated corporation, at the place designated in this certificate, I hereby accept appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.*

[Signature]  
Signature/Registered Agent

10/5/01  
Date

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## EXHIBIT "C"

**BYLAWS OF THE ENCLAVE AT CENTURY PARC**  
**HOMEOWNERS' ASSOCIATION, INC.**

**ARTICLE I - IDENTITY**

**Section 1. Name.** The following Bylaws shall govern the ENCLAVE AT CENTURY PARC HOMEOWNERS' ASSOCIATION, INC. (the "Association").

**Section 2. Principal-Office.** The principal office of the Association shall be 7270 N.W. 12<sup>th</sup> Street, Suite 410, Miami, Florida 33126, but the Association may maintain offices, transact business and hold meetings of members and Directors at such places within the State of Florida as may be designated by the Board of Directors.

**Section 3. Seal.** The seal of the Association shall be in circular form bearing within its circumference the name of the Association and the year of incorporation.

**Section 4. Definitions.** All references to "Declaration", as used herein, shall mean the **Declaration of Covenants and Restrictions for The enclave at Century Parc** recorded, or to be recorded, in the Public Records of Miami-Dade County, Florida. All other words and phrases, as used herein, shall have the same definitions as attributed to them in the Declaration.

**ARTICLE II - MEMBERSHIP AND VOTING PROVISIONS**

**Section 1. Membership.** Membership in the Association shall be limited to Owners of Lots. Transfer of Lot ownership, either voluntarily or by operation of law, shall terminate membership in the Association, and said membership is to become automatically vested in the transferee upon the recordation in the Public Records of Miami-Dade County, Florida, of the deed or other instrument establishing the acquisition and designating the Lot affected thereby. If Lot ownership is vested in more than one (1) person, then all of the persons so owning said Lot shall be members eligible to hold office, attend meetings, etc., but, the vote of a Lot shall be cast by the "voting member". If Lot ownership is vested in a corporation or other legal entity, said corporation or other legal entity may designate an individual officer, employee or other representative of the corporation or other legal entity as its "voting member".

**Section 2. Voting**

A. The Owner(s) of each Lot shall be entitled to one (1) vote for each Lot. If an Owner owns more than one (1) Lot, the Owner shall be entitled to one vote for each Lot owned. The vote of a Lot is not divisible.

B. A majority of the voting members' total votes cast shall decide any question, unless specific provisions in the Declaration, Articles of Incorporation or these Bylaws provide otherwise, in which event, the voting percentage required in the said Declaration, Bylaws or Articles of Incorporation shall control.

**Section 3. Quorum.** Unless otherwise provided by these Bylaws, the Declaration or the Articles of Incorporation, the presence in person or by either general or limited proxy of **thirty percent (30%)** of the total votes held by voting members shall constitute a quorum. The joinder of a member in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such member for the purpose of determining a quorum.

**Section 4. Proxies:** Votes may be cast in person or by limited proxy only. No votes may be cast by general proxy except to establish a quorum at a meeting of the members. All proxies shall be in writing and signed by the person entitled to vote and shall be filed with the Secretary of the Association not less than three (3) days prior to the meeting in which they are to be used and shall be valid only for the particular meeting designated therein, and any lawfully adjourned meetings thereof, the date for which shall not exceed ninety (90) days from the date of the meeting for which they were given. When a Lot is owned jointly by a husband and wife, and if they have not designated one (1) of them as a voting member, a proxy must be signed by both husband and wife when a third person is designated.

**Section 5. Designation of Voting Member.** If a Lot is owned by one (1) person, the right to vote shall be established by the recorded deed or other instrument establishing title to the Lot. If a Lot is owned by more than one (1) person, the person entitled to cast the vote for the Lot shall be designated in a Certificate, signed by all of the record owners of the Lot and filed with the Secretary of the Association. If a Lot is owned by a corporation, or other legal entity, the officer, employee or other representative thereof entitled to cast the vote of the corporation or other legal entity shall be designated in a Certificate for this purpose signed by the President, Vice President, or other authorized signatory and filed with the Secretary of the Association. The person

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designated in such Certificate who is entitled to cast the vote for a Lot shall be known as the "voting member". If such a Certificate is not on file with the Secretary of the Association for a Lot owned by more than one (1) person, by a corporation or other legal entity, the vote of such Lot shall not be considered in determining the requirement for the quorum, or for any purpose requiring the approval of a person entitled to cast the vote for the Lot, unless the Lot is owned by a husband and wife. Such Certificates shall be valid until revoked, superseded by a subsequent Certificate, or a change in the ownership of the Lot takes place.

If a Lot is owned jointly by a husband and wife, the following three (3) provisions are applicable thereto:

- A. They may, but they shall not be required to, designate a voting member.
- B. If they do not designate a voting member, and if both are present at a meeting and are unable to concur in their decision upon any subject requiring a vote, they shall lose their right to vote on that subject at that meeting.
- C. When they do not designate a voting member and one (1) person is present at a meeting, that person may cast the Lot vote just as though he or she owned the Lot individually and without establishing the concurrence of the absent person.

No cumulative voting is permitted.

### ARTICLE III - MEETING OF THE MEMBERSHIP

Section 1. Who May Attend. All Owners of Lots may attend any meeting of the members. In the event any Lot is owned by a corporation, the Director or officer of the corporation may attend any meeting of the members; any partner of a partnership owned Lot may attend any meeting of the members, however, the vote for any Lot shall be cast in accordance with the provisions of these Bylaws. All members may attend meetings notwithstanding that a proxy for said member's vote has been given to a third party.

Section 2. Notices. It shall be the duty of the Secretary to mail or deliver a notice of each annual or special meeting, stating the time and place thereof to each Lot Owner of record. All notices shall be mailed to or served at the address of the Lot Owner as it appears on the books of the Association as hereinafter set forth. Notices of annual meetings shall be furnished to each member, and, except in the event of an emergency, notices of special meetings shall be furnished to each member at least ten (10) days prior to such meeting. Notice of a special meeting may be waived either before or after the meeting, in writing.

Section 3. Annual Meeting. The annual meeting for the purpose of electing directors and transacting any other business authorized to be transacted by the members shall be held once in each calendar year at such time and on such date in each calendar year as the Board of Directors shall determine. At the annual meeting, the members shall elect by plurality vote a Board of Directors and shall transact such other business as may properly be brought before the meeting.

Section 4. Special Meeting. Special meetings of the members for any purpose or purposes, unless otherwise prescribed by statute, may be called by the President, and shall be called by the President or Secretary at the request, in writing, of a majority of the Board of Directors, or at the request, in writing, of voting members representing twenty-five percent (25%) of the members, and shall state the purpose or purposes of the proposed meeting. Business transacted at all special meetings shall be confined to the matters stated in the notice thereof.

Section 5. Waiver and Consent. Whenever the vote of members at a meeting is required or permitted by any provision of these Bylaws to be taken in connection with any action of the Association, the meeting and vote of members may be dispensed with if not less than two-thirds (2/3) of the total votes of the members who would have been entitled upon the action if such meeting were held shall consent in writing to such action being taken; however, notice of such action shall be given to all members unless all members approve such action.

Section 6. Adjourned Meeting. If any meeting of members can not be organized because a quorum of the total votes held by members is not present, either in person or by proxy, the meeting may be adjourned from time to time until a quorum is present.

### ARTICLE IV - DIRECTORS

Section 1. Number. The affairs of this Association shall be managed by the Board of Directors who shall be members of the Association, except that Directors elected or appointed by the Developer need not be members of the Association.



**Section 2. Term of Office.** At the first annual meeting held by the Association, and at subsequent annual meetings thereafter, the members shall elect, in person or by written ballot delivered at the meeting, a minimum of three (3) Directors who shall each serve for a term of one (1) year, unless he/she shall earlier resign, or shall be removed, or otherwise be disqualified to serve.

**Section 3. First Board of Directors.**

A. The initial Board of Directors of the Association who shall hold office and serve until the first annual meeting of members, and until their successors have been elected and qualified, shall be:

LUIS P. RABELL  
CESAR LLANO  
KEYLA ALBA REILLY.

B. The meeting of a newly elected Board of Directors of the Association shall be held within thirty (30) days after their election at such place and time as shall be fixed by the Directors at the meeting at which they were elected, and no further notice of the meeting shall be necessary, provided a quorum shall be present.

**Section 4. Appointment of Directors by Developer.**

A. As provided in the Declaration, until the Class B membership ceases to exist, the Developer shall have the right to appoint all of the Directors of the Association. Thereafter, the Developer shall have the right to appoint one (1) Director for so long as the Developer owns any Lot. The Developer may waive its right to appoint one or more Directors by written notice to the Association, and thereafter Directors shall be elected by the members.

B. While the Developer is entitled to representation on the Board, whether the Developer exercises that right or not, the Board shall have no authority to and shall not, without the consent of the Developer, which shall be exercised by its appointee on the Board or any other person designated to so act by the Developer, and which may be withheld at Developer's sole discretion, undertake any action which shall:

1. prohibit or restrict in any manner the sales and marketing program of the Developer;
2. make any special or individual assessment against or impose any fine upon the Developer's property or the Developer;
3. authorize or undertake any litigation against the Developer;
4. alter or amend the Declaration, any subsequent amendment thereto, or the Articles or Bylaws;
5. restrict the Developer's right to use of, access to and enjoyment of any of the Common Property.

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

**Section 5. Removal.** Any Director may be removed from the Board, with or without cause, by a majority vote of the total votes held by members of the Association.

**Section 6. Vacancies.** If the office of any Director or Directors becomes vacant by reason of death, resignation, retirement, disqualification, removal from office or otherwise, a majority of the remaining Directors, though less than a quorum, shall choose a successor or successors who shall hold office for the balance of the unexpired term in respect to which such vacancy occurred. The appointment held for the purpose of filling said vacancy may be held at any regular or special meeting of the Board of Directors. If the Association fails to fill vacancies on the Board of Directors which are sufficient to constitute a quorum in accordance, with the Bylaws, any Owner may apply to the circuit court that has jurisdiction over the community served by the Association for the appointment of a receiver to manage the affairs of the Association. At least 30 days before applying to the circuit court, the Owner shall mail to the Association and post, in a conspicuous

place on the property of the community served by the Association, a notice describing the intended action, giving the Association the opportunity to fill the vacancies. If during such time the Association fails to fill the vacancies, the Owner may proceed with the petition. If a receiver is appointed, the Association shall be responsible for the salary of the receiver, court costs, and attorney's fees. The receiver shall have all powers and duties of a duly constituted Board of Directors and shall serve until the Association fills vacancies on the Board sufficient to constitute a quorum.

**Section 7. Disqualification and Resignation.** Any Director may resign at any time by sending a written notice of such resignation to the office of the Association, delivered to the Secretary. Unless otherwise specified therein, such resignation shall take effect upon receipt thereof by the Secretary. Commencing with the first meeting of the newly elected Board of Directors following the first annual meeting of the members of the Association, more than three (3) consecutive absences from regular meetings of the Board of Directors, unless excused by resolution of the Board of Directors, shall automatically constitute a resignation effective when such resignation is accepted by the Board of Directors. Commencing with the Directors elected at such first annual meeting of the membership, the transfer of title to that Director's Lot shall automatically constitute a resignation, effective upon the recordation in the Public Records of **Miami-Dade County, Florida**, of the deed or other instrument establishing the transfer. No member shall continue to serve on the Board should he/she be more than thirty (30) days delinquent in the payment of an assessment, and said delinquency shall automatically, constitute a resignation, effective when such resignation is accepted by the Board of Directors.

**Section 8. Compensation.** No Director shall receive compensation for any service rendered to the Association; however, any Director may be reimbursed for the actual expenses incurred in the performance of his/her duties.

**Section 9. Notice of Board of Directors' Meetings.** Notices of all meetings of the Board Directors shall be posted in a conspicuous place on the Association property at least 48 hours in advance, except in an emergency. Notice of any meeting in which, assessments against parcels are to be established shall specifically contain a statement that assessments shall be considered and a statement of the nature of such assessment. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

**Section 10. Regular Meetings.** Regular meetings of the Board shall be held at such place and hour as may be fixed from time to time by resolution of the Board and shall be open to all members of the Association.

**Section 11. Special Meetings.** Special meetings of the Board of Directors shall be held when called by the President and, in his/her absence, by the Vice President of the Association, or by any two (2) directors, after not less than three (3) days notice in time and place of said meeting, except in the event of an emergency. All notices of special meetings shall state the purpose of the meeting.

**Section 12. Directors' Waiver of Notice.** Before or at any meeting of the Board of Directors, any Director may waive notice of such meeting and such waiver shall be deemed equivalent to the giving of notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice to members of the Board shall be required and any business may be transacted at such meeting.

**Section 13. Quorum.** At all meetings of the Board of Directors a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at such meetings at which a quorum is present shall be the acts of the Board of Directors. If at any meeting of the Board of Directors, there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum shall be present. At each such adjourned meeting, any business which might have been transacted at the meeting, as originally called, may be transacted without further notice to the Board. The joinder of a Director in the action of a meeting by signing and concurring in minutes thereof shall constitute the presence of such Director for the purpose of determining a quorum.

**Section 14. Nomination.** Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two (2) or more members of the Association. The nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are filled.

**Section 15. Election.** Election to the Board of Directors shall be by secret ballot. At such election, the members may cast their ballots, for each vacancy, using as many votes as they are entitled to cast. The persons receiving the largest number of votes shall be elected.

Section 16. Powers. The Board of Directors of the Association shall have the powers necessary for the administration of the affairs of the Association. The powers shall specifically include, but shall not be limited to, the following:

- A. To suspend the voting rights of a member during any period in which such member shall be in default in the payment of any assessment for more than thirty (30) days after notice.
- B. To exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation, or the Declaration.
- C. To declare the office of member of the Board the Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors.
- D. To employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.
- E. To further improve the Common Property, both real and personal property, subject to the provisions of these Bylaws, the Articles of Incorporation, or the Declaration.
- F. To further designate one (1) or more committees which, to the extent provided in the resolution designating said committee, shall have the powers of the Board of Directors in the management, affairs and business of the Association. The committee or committees shall have such name or names as may be determined from time to time by the Board of Directors, and said committee(s) shall keep regular Minutes of their proceedings and report the same to the Board of Directors. The foregoing powers shall be exercised by the Board of Directors or its designee or employees, subject only to approval by Lot Owners when such is specifically required.
- G. 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". The Declaration is incorporated by this reference as if more fully set forth herein.
- H. To fix, levy, collect and enforce payment by any lawful means of all charges or assessments pursuant to the terms of the Declaration, and to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the Property or the Association.
- I. With the assent of two-thirds (2/3) of the votes of each class of member who are voting in person or by proxy, at a duly called meeting at which a quorum is present, acquire (by gift, purchase or otherwise), improve, build upon, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real property in connection with the affairs of the Association.
- J. To own, hold, operate and maintain the real and personal property of the Association.
- K. With the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy, at a duly called meeting at which a quorum is present, borrow money, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred; provided, however, that the Association shall not need the approval of the members to borrow any amount less than \$25,000.00 or to secure said loan with property of the Association.
- L. To participate in mergers and consolidations with other corporations not for profit organized for the same purposes so long as any such merger or consolidation does not broaden the duties and obligations of the Association required by the terms of the Declaration and provided that any such merger, consolidation or annexation shall have the assent to two-thirds (2/3) of the members.
- M. To have and to exercise all of the common law and statutory powers, rights and privileges which a corporation organized under the Corporation Not for Profit Law of the State of Florida may now or hereafter have or exercise, which are not in conflict with the terms of these Bylaws, the Declaration and the Articles.

Section 17. Duties. The Board of Directors shall have the following duties:

- A. To cause to be kept a complete record of all corporate affairs and to present a statement thereof to the members at the annual meeting of members, or at any special meeting when such statement is requested in writing by one fourth (1/4th) of the Class A members who are entitled to vote. The records required to be kept shall include the following:

1. A copy of the plans, permits, warranties, and other items provided by the Developer.
  2. A copy of these Bylaws of the Association and of each Amendment to the Bylaws.
  3. A certified copy of the Articles of Incorporation of the Association, or other documents creating the Association, and of each Amendment thereto.
  4. A copy of the current Rules of the Association.
  5. A book or books that contain the minutes of all meetings of the Association, of the Board of Directors, and of members, which minutes shall be retained for a period of not less than seven (7) years.
  6. A current roster of all members and their mailing addresses, parcel identifications, and, if known, telephone numbers.
  7. All current insurance policies of the Association or a copy thereof.
  8. A current copy of any management agreement, lease, or other contract to which the Association is a party or under which the Association or the parcel owners have an obligation or responsibility.
  9. Accounting records of the Association and separate accounting records for each parcel, according to generally accepted accounting principles. All accounting records shall be maintained for a period of not less than 7 years. The accounting records shall be open to inspection by parcel owners or their authorized representatives at reasonable times. The failure of the Association to permit inspection of its accounting records by parcel owners or their authorized representatives entitles any person prevailing in an enforcement action to recover reasonable attorney's fees from the person in control of the books and records who, directly or indirectly, knowingly denied access to the books and records for inspections. The accounting records shall include, but are not limited to:
    - i. Accurate, itemized, and detailed records of all receipts and expenditures.
    - ii. A current account and a periodic statement of the account for each member of the Association, designating the name of the member, the due date and amount of each assessment, the amount paid upon the account, and the balance due.
    - iii. All audits, reviews, accounting statements, and financial reports of the Association.
    - iv. All contracts for work to be performed. Bids for work to be performed shall also be considered official records and shall be maintained for a period of one (1) year.
- B. To supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;
- C. As more fully provided in the Declaration; to:
1. Fix the amount of the annual general assessment;
  2. Send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and,
  3. File and foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner.
- D. To issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payments.
- E. To cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate, for which the Association shall bear the cost.
- F. To procure and maintain adequate liability and hazard insurance or other insurance as needed on property to be owned or maintained by the Association.
- G. To cause the Common Property to be maintained. The Association shall not be responsible for the maintenance of any property not designated as Common Property in the Declaration.

**ARTICLE V - OFFICERS**

**Section 1. Enumeration of Officers.** The officers of the Association shall be a President and Vice President, who shall at all times be members of the Board Directors, and a Secretary, a Treasurer, and such other officers as the Board may from time to time by resolution create, who shall be from among the members, except that officers elected or appointed by the Developer need not be members of the Association.

**Section 2. Election.** The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

**Section 3. Term.** The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless he/she shall earlier resign, or shall be removed, or otherwise be disqualified to serve.

**Section 4. Special Appointments.** The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

**Section 5. Resignation and Removal.** Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time, by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect at the first meeting of such notice or at any later time specified therein. The acceptance of such resignation shall not be necessary to make it effective.

**Section 6. Vacancies.** A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he/she replaces.

**Section 7. Multiple Offices.** The offices of Secretary and Treasurer may be held by the same person. No other person shall simultaneously hold more than one (1) of any of the other offices except in the case of special offices created by the Board of Directors.

**Section 8. Duties.** The duties of the officers are as follows:

A. **President.** The President shall be the chief executive officer of the Association; shall preside at all meetings of the members and of the Board of Directors; shall have executive powers and general supervision over the affairs of the Association and other officers; and, shall sign all written contracts to perform all of the duties incident to the office of President and which may be required by the Board of Directors.

B. **Vice President.** The Vice President shall act in the place and stead of the President in the event of his/her absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required by the Board.

C. **Secretary.** The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses; shall have charge of all of the Association's books, records and papers, except those kept by the Treasurer; and, shall perform such other duties as required by the Board.

D. **Treasurer.** The Treasurer shall receive and deposit in appropriate bank accounts all funds of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks of the Association; shall keep proper books of account; shall cause an annual review of the Association's books to be made by a certified public accountant at the completion of each taxable year; shall prepare an annual budget and a statement of income and expenditures to be presented to the members at the regular annual meeting, and deliver a copy of each to the members; and, shall collect the assessments and promptly report to the Board of Directors the status of collections and of all delinquencies.

**ARTICLE VI - BOOKS AND RECORDS OF MEMBER**

**Section 1. Owner Register.** The Association shall maintain mailing address of all Owners. In the event that the address of an Owner is different from the property address and the Association has not been provided with the different address, the property address shall be deemed to be the mailing address, and any notice sent to the property address shall comply with the requirements of these Bylaws, the Declaration, and the Articles of Incorporation. If a Lot is owned by more than one (1) person, they shall provide the Association with one (1) mailing address for said Lot, and, in the event the same is not provided to the Association, it shall be deemed to be the property address. Any change of address shall be effective only as to future notices, and shall not affect any notices previously provided to a member, even in the event that the meeting or other occurrence in the said notice has not occurred as of the time of giving of said address change.

Section 2. Inspection by Members. The books, records and papers of the Association shall, during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation, and the Bylaws of the Association shall be available for inspection by any member at the principal office of the Association.

## ARTICLE VII - FINANCES AND ASSESSMENTS

Section 1. Depositories. The funds of the Association shall be deposited in such banks and depositories as may be determined by the Board of Directors from time to time upon resolutions approved by the Board, and shall be withdrawn only upon checks and demands for money signed by such officer or officers of the Association as may be designated by the Board of Directors. Obligations of the Association shall be signed by at least two (2) officers of the Association.

Section 2. Fidelity Bonds. The Treasurer and all officers who are authorized to sign checks, and all officers and employees of the Association, and any contractor handling or responsible for Association funds, shall be bonded in such amount as may be determined by the Board of Directors. The premiums on such bonds shall be paid by the Association. The bond shall be in an amount sufficient to equal the monies an individual handles or has control of via a signatory or a bank account or other depository account.

Section 3. Taxable Year. The taxable year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first taxable year shall begin on the date of incorporation.

### Section 4. Determination of Assessments.

A. The Board of Directors of the Association shall fix and determine from time to time the sum or sums necessary and adequate to pay for the expenses of the Association. Association expenses shall include those expenses set forth in the Declaration, including the costs of carrying out the powers and duties of the Association, and such other expenses as are determined by the Board. The Board is specifically empowered, on behalf of the Association, to make and collect assessments and to maintain and repair areas as provided in the Declaration. Funds for the payment of Association expenses shall be assessed against the Lot Owners on an equal basis as provided in the Declaration. Said assessments shall be payable in advance as determined by the Board of Directors, and shall be due when ordered by the Board. Special assessments, should such be required by the Board of Directors, shall be levied in the same manner as herein before provided for regular assessments and shall be payable in the manner determined by the Board.

B. When the Board of Directors has determined the amount of any assessment, the Treasurer of the Association shall mail or present to each Owner a statement of said Owner's assessment. All assessments shall be payable to the Treasurer of the Association, and upon request said Treasurer shall give a receipt for each payment made to him.

C. The Board of Directors shall adopt an operating budget for each fiscal year pursuant to the Declaration.

Section 5. Application of Payments and Commingling of Funds. All sums collected by the Association from assessments may be commingled in a single fund or divided into more than one (1) fund as determined by the Board of Directors. All assessment payments by an Owner shall be applied as to interest, delinquencies, costs and attorneys' fees, other charges, expenses and advances, as provided herein and in the Declaration, and general or special assessments in such manner and amounts as the Board of Directors determines, in its sole discretion.

Section 6. Acceleration of Assessment Installments Upon Default. If an Owner shall be in default in the payment of an installment upon any assessment, the Board of Directors may accelerate the remaining monthly installments for the fiscal year upon notice thereof to the Owner and, thereupon, the unpaid balance of the assessment shall become due upon the date stated in the notice, but not less than ten (10) days after delivery of or mailing of such notice to Owner.

## ARTICLE VIII - AMENDMENTS

Section 1. Amendments. These Bylaws may be amended, at regular or special meeting of the members, by a vote of **sixty seven percent (67%)** of the total votes held by members who are present in person or by proxy at such meeting.

Section 2. Conflicts. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall prevail. If any unreconciled conflict should exist, or hereafter arise, with respect to the interpretation of these Bylaws, as between these Bylaws and the Declaration, the Declaration shall prevail. No amendment of these Bylaws shall change the rights and privileges of the Developer without the Developer's prior written approval.

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**ARTICLE IX - INDEMNIFICATION**

**Section 1. Indemnification.** The Association shall indemnify any Director or officer made a party or threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative, brought to impose a liability or penalty on such person for an act alleged to have been committed by such person in his/her capacity as Director or officer of the Association, or in his/her capacity as Director, officer employee or agent of any other corporation, partnership, joint venture, trust or other enterprise which he/she serves at the request of the Association, against judgements, fines, amounts paid in settlement, and reasonable expenses, including attorneys' fees actually and necessarily incurred as a result of such action, suit, or proceeding or any appeal thereof, if such person acted in good faith in the reasonable belief that such action was in the best interests of the Association, and in criminal actions or proceedings, without reasonable grounds for belief that such action was unlawful. The termination of any such action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not in itself create a presumption that any such Director or officer did not act in good faith in the reasonable belief that such action was in the best interests of the Association or that he/she had reasonable grounds for belief that such action was unlawful. Such person shall not be entitled to indemnification in relation to matters as to which such person has been adjudged to have been guilty of negligence or misconduct in the performance of his/her duty to the Association unless, and only to the extent that, the court, administrative agency, or investigative body before which such action, suit, or proceeding is held shall determine upon application that, despite the adjudication of liability, but in view of all circumstances of the case, the person is fairly reasonably entitled to indemnification for such expenses which such tribunal shall deem proper.

**Section 2. Determination of Amounts.** The Board of Directors shall determine whether amounts for which a Director or officer seeks indemnification were properly incurred, and whether such Director or officer acted in good faith and in a manner he/she reasonably believed to be in the best interests of the Association, and whether, with respect to any criminal action or proceeding, he/she had no reasonable grounds for belief that such action was unlawful. Such determination shall be made by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding. In the event that all the Directors were parties to such action, suit or proceeding, such determination shall be made by the members of the Association by a majority vote of a quorum.

**Section 3. No Limitation.** The foregoing rights of indemnification shall not be deemed to limit in any way the powers of the Association to indemnify under applicable law.

**ARTICLE X - TRANSACTION IN WHICH DIRECTORS OR OFFICERS ARE INTERESTED**

A. No contract or transaction between the Association and one (1) or more of its directors or officers, or between the Association and any other corporation, partnership, association, or other organization in which one (1) or more of its directors or officers are directors or officer, or have a financial interest, shall be invalid, void, voidable solely for this reason, or solely because the director or officer is present at or participates in the meeting of the Board or committee thereof which authorized the contract or transaction, or solely because said 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 said director or officer may be interested in any such contract or transaction.

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

**ARTICLE XI - HUD AND VA APPROVAL**

For so long as there is a Class B membership, the following actions will require the approval of either the Department of Housing and Urban Development or the Veterans Administration if any mortgage encumbering a Lot is guaranteed or insured by either such agency: (a) annexation of additional properties; (b) mergers and consolidations; (c) mortgaging or dedication of Common Property and (d) dissolution or amendment of these Bylaws. Such approval, however, shall not be required where the amendment is made to correct errors, omissions or conflicts or is required by any institutional lender so that such lender will make, insure or guarantee mortgage loans encumbering the lots, or is required by any governmental authority. Such approval shall be deemed given if either agency fails to deliver written notice of its disapproval of any amendment to Developer or to the Association within twenty (20) days after a request for such approval is delivered to the agency by certified mail, return receipt requested, or equivalent delivery, and such shall be conclusively evidenced by a certificate of Developer or the Association that the approval was given or deemed given.



**ARTICLE XII - LIABILITY SURVIVES TERMINATION  
OF MEMBERSHIP**

The termination of membership in the Association shall not relieve or release any such former Owner or member from any liability or obligations incurred under or in any way connected with the Association during the period of such ownership of a Lot and membership in the Association, or impair any rights or remedies which the Association may have against such former Owner and member arising out of or in any way connected with such ownership and membership, and the covenants and obligations incident thereto.

**ARTICLE XIII - LIMITATION OF LIABILITY**

Notwithstanding the duty of the Association to maintain and repair areas as provided in the Declaration, the Association shall not be liable for injury or damage caused by a latent condition in the property, nor for injury or damage caused by the elements or by other persons.

**ARTICLE XIV - ACQUISITION OF LOTS**

**Section 1. Acquisition on Foreclosure.** At any foreclosure sale of a Lot, the Board of Directors may, with the authorization and approval by the affirmative vote of a majority of the total voting members' votes present at any regular or special meeting of members wherein said matter is voted upon, acquire in the name of the Association, or its designee, a Lot being foreclosed. The term "foreclosure" as used in this section, shall mean and include any foreclosure of any lien, excluding the Association's lien for assessments. The power of the Board of Directors to acquire a Lot at any foreclosure sale shall never be interpreted as any requirement or obligation on the part of the said Board of Directors or of the Association to do so at any foreclosure sale, the provisions hereof being permissive in nature and for the purposes of setting forth the power in the Board of Directors to do so should the requisite approval of the voting members be obtained. The Board of Directors shall not be required to obtain the approval of Lot Owners at the foreclosure sale of the Lot due to the foreclosure of the Association's lien for assessments under the provisions of the Declaration, notwithstanding the sum the Board of Directors determines to bid at such foreclosure sale.

**ARTICLE XV - PARLIAMENTARY RULES**

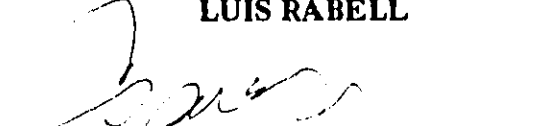
Robert's Rules of Order (latest edition) shall govern the conduct of the Association's meetings when not in conflict with the Declaration, or these Bylaws.

**ARTICLE XVI - PARAMOUNT RIGHTS OF DEVELOPER**

All of the applicable terms and provisions of the Articles or these Bylaws shall be subject to the Declaration of Covenants and Restrictions as to the rights and powers of the Developer, which rights and powers shall be deemed paramount to the applicable provisions of the Articles or these Bylaws.

The foregoing Bylaws for the Association were adopted this 11<sup>th</sup> day of January, 2002, by the Initial Board of Directors of the Association.

  
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LUIS RABELL

  
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CESAR LLANO

  
\_\_\_\_\_  
KEYLA ALBA REIDLY

RECORDED IN OFFICIAL RECORDS BOOK  
OF DADE COUNTY, FLORIDA  
RECORD VERIFIED  
HARVEY RUVIN  
CLERK CIRCUIT COURT