

**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS
FOR
MAGNOLIA LANDING**

**THIS DOCUMENT WAS PREPARED BY
AND SHOULD BE RETURNED TO:**

Marc I. Spencer, Esq.
TAYLOR WOODROW COMMUNITIES AT HERONS GLEN, L.L.C.
877 Executive Center Drive, Suite 205
St. Petersburg, Florida 33702
(727) 563-9882

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Exhibit "C"	Bylaws
Exhibit "D"	Urban Stormwater Management Program
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**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS
FOR
MAGNOLIA LANDING**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS (this "**Declaration**") is made this ____ day of _____, 200__, by **TAYLOR WOODROW COMMUNITIES AT HERONS GLEN, L.L.C.**, a Florida limited liability company (hereinafter referred to as "**Declarant**"), and is joined in by **MAGNOLIA LANDING MASTER ASSOCIATION, INC.**, a Florida not-for-profit corporation (hereinafter referred to as the "**the Master Association**") and **CFM COMMUNITY DEVELOPMENT DISTRICT** (hereinafter referred to as "**CDD**").

STATEMENT OF BACKGROUND INFORMATION

- A. Terms capitalized in this Declaration are defined in Article III hereof.
- B. Declarant is the master developer of the Property.
- C. The real property subject to this Declaration from time to time is anticipated to be developed as a planned residential community to be known as "MAGNOLIA LANDING."
- D. Declarant has formed the Master Association to fulfill the Master Association's obligations as set forth in this Declaration.
- E. The predecessor in title to the Property formed the CDD to acquire, operate and maintain certain community infrastructure.

STATEMENT OF DECLARATION

Declarant hereby declares that the Property shall be held, sold, conveyed, encumbered, leased, occupied and improved subject to the following covenants, conditions, restrictions, easements and provisions.

**ARTICLE I
GENERAL PLAN OF DEVELOPMENT**

The Property, including without limitation development tracts, recreation tracts, open space and other tracts, shall be developed in accordance with all applicable governmental approvals, including, but not limited to, the development approvals granted by Lee County, Florida, and all applicable codes, permits, approvals and development agreements. The Property will be developed as a residential development to be known as MAGNOLIA LANDING consisting of various residential housing, recreational and social amenities, roads, landscape areas, signage, conservation areas, a surface water management system and other related or compatible improvements. The Property will be developed in phases in accordance with the governmental approvals, as the same exist from time to time. When completed, MAGNOLIA LANDING is anticipated to have approximately one thousand seven hundred (1,700) homes; provided, however, Declarant makes no representation or warranty regarding construction of future phases or the number of Lots which will be subject to this Declaration, which number may be more or less than one thousand seven hundred (1,700). The timing of construction of each phase has not, as of this date, been finalized.

The Property will be subject to this Declaration. Portions of the Property may be, but need not be, subject to Village Supplements or Village Documents as well as this Declaration. The Master Association is responsible for the administration of this Declaration.

ARTICLE II INTENT OF DECLARATION

Declarant desires to provide for the preservation and enhancement of the value, desirability and attractiveness of the Property and, therefore, Declarant intends by this Declaration to impose upon the Property mutually beneficial covenants, conditions, restrictions, assessments and easements under a general plan of improvement for the benefit of all Owners within the Property. Declarant desires to provide flexible and reasonable procedures for the overall development of the Property, and to establish a method for the administration, maintenance, preservation, use and enjoyment of the Property, and maintenance and use of property dedicated to or owned by the Master Association.

ARTICLE III DEFINITIONS

Section 3.1 “Architectural Review Committee” or “ARC” shall refer to the committee established in Article XIII hereof.

Section 3.2 “Areas of Common Responsibility” shall mean and refer to the Common Area, together with those areas, if any, which by the terms of this Declaration, Supplement or by contract or agreement with any Village Association, the CDD or a governmental agency, become the maintenance, monitoring, repair, replacement or operating responsibility of the Master Association.

Section 3.3 “Articles of Incorporation” or “Articles” shall mean and refer to the Articles of Incorporation of MAGNOLIA LANDING MASTER ASSOCIATION, INC., as filed with the Secretary of State of Florida, and as may be amended from time to time. The Articles of Incorporation are attached to this Declaration as Exhibit “B.” Amendments to the Articles of Incorporation shall be recorded in the Public Records.

Section 3.4 “Assessment” or “Assessments” shall mean and refer to those charges, fees and/or obligations set forth in Article XII hereof, including, without limitation, Common Assessments, Village Assessments, Special Assessments, Benefit Assessments and Landscape Assessments.

Section 3.5 “Benefit Assessment” shall mean Assessments levied pursuant to Section 12.6 of this Declaration.

Section 3.6 “Board of Directors” or “Board” shall be the elected or appointed body of the Master Association having its normal meaning under Florida corporate law.

Section 3.7 “Bylaws” shall mean and refer to the BYLAWS OF MAGNOLIA LANDING MASTER ASSOCIATION, INC. as may be amended from time to time. The Bylaws are attached to this Declaration as Exhibit “C.” Amendments to the Bylaws shall be recorded in the Public Records.

Section 3.8 “Club Facilities” shall mean the portions of the Common Property comprising the tennis, swim, exercise, restaurant, social and related facilities and equipment to be owned, leased and/or operated by the Master Association or intended by Declarant to be owned, leased and/or operated by the Master Association, as the same may be modified from time to time. **The Club Facilities do not include the Golf Club Facilities, which are not Common Property.**

Section 3.9 “Common Area” or “Common Property” shall be an inclusive term referring to all real property dedicated to, owned by, or held by the Master Association, or intended by Declarant to be devoted to the common use or enjoyment of the Members or for preservation within the Properties in accordance with this Declaration, including, without limitation, the Club Facilities. The term “Common Property” shall also include any personal property acquired by the Master Association if such designation is reasonable under the circumstances. Any land or personal property leased by the Master Association shall lose its character as Common Property upon the expiration of such lease. The Common Property may include, without limitation, entry features, landscaping, walls, fences, signage, private streets, street

lights, open space, and recreational facilities such as, by way of example, tennis, swim, exercise, dining and social facilities. CDD owned property is not common property.

Section 3.10 “Common Assessment” shall mean and refer to Assessments levied pursuant to Section 12.3 of this Declaration.

Section 3.11 “Common Expenses” shall mean and include the actual and estimated expenses incurred by the Master Association for maintenance, operation and other services required or authorized to be performed by the Master Association which is attributable to the Areas of Common Responsibility, including, but not limited to, costs and expenses of maintenance and operation of the Surface Water Management System, if the same is the maintenance obligation of the Master Association, and including any reasonable reserves if a reserve account is established, all as may be found to be appropriate by the Board pursuant to this Declaration, the Bylaws and the Articles of Incorporation of the Master Association.

Section 3.12 “Common Property Management Agreement” shall mean the management agreement between Declarant, or a property management company, and the Master Association pursuant to which Declarant or such property management company will manage the Common Property.

Section 3.13 “Community Development District” or “CDD” shall mean and refer to the CFM Community Development District which is a special purpose government unit created under Chapter 190, Florida Statutes, and which may acquire, fund, construct, operate and maintain certain infrastructure and community services within or outside the Properties.

Section 3.14 “Community Wide Standards” shall mean the standards of conduct, maintenance, or other activity generally prevailing throughout the Properties, as the same may exist from time to time. Such standards may be more specifically determined by the Board of Directors, subject to the consent of Declarant so long as Declarant or any Merchant Builder owns one or more Lots within the Properties. Community Wide Standards shall be part of the Rules and Regulations.

Section 3.15 “Declarant” shall mean and refer to Taylor Woodrow Communities at Herons Glen, L.L.C. or its successors or a successor-in-title to any portion of the Property pursuant to an instrument which is duly recorded in the Public Records and which specifically conveys and assigns to the grantee thereof all or any portion of the rights of Taylor Woodrow Communities at Herons Glen, L.L.C. hereunder. Such conveyance and assignment may be partial, in which event Taylor Woodrow Communities at Herons Glen, L.L.C.'s rights so conveyed shall be limited as provided in the instrument, or the same may be a complete conveyance and assignment of any and/or all rights or obligations, in which latter event shall vest such successor with all of the assigned rights and/or obligations of Taylor Woodrow Communities at Herons Glen, L.L.C. hereunder at which time Taylor Woodrow Communities at Herons Glen, L.L.C. will be released of all liability relating to any assigned right and/or obligation.

Section 3.16 “Declaration” shall mean and refer to this Declaration of Covenants, Conditions, Restrictions and Easements for Magnolia Landing as the same may be amended or Supplemented from time to time.

Section 3.17 “Exclusive Common Area” shall mean any portion of the Common Area which by Plat, Village Supplement or a recorded instrument of conveyance is for the sole benefit and use of Owners within a Village or Villages designated by the Plat, Supplement or instrument of conveyance.

Section 3.18 “First Mortgagee” shall mean and refer to any Institutional Lender who holds a first mortgage on a Lot and who has notified the Master Association, in writing, of its holdings.

Section 3.19 “Golf Club Facilities” shall mean and refer to the golf course, golf clubhouse and surrounding grounds, golf practice facilities, golf maintenance facilities, and other facilities owned (whether in fee, easement, lease, or license) by Declarant and its successors and assigns and used in conjunction with the ownership and operation of the golf and associated facilities.

Section 3.20 “Home” shall mean all improvements to a Lot, including, but not limited to, a residential unit, ancillary structures such as garages, cabanas or gazebos, driveways, fencing, landscaping, swimming pool, spa and pool cage.

Section 3.21 “Institutional Lender” shall mean and refer to (a) a bank, life insurance company, federal or state savings and loan association, real estate or mortgage investment trust, qualified pension, profit sharing, IRA accounts or trusts, Declarant, its successors and assigns, or mortgage banking company, or (b) any “Secondary Mortgage Market Institution” including the Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Housing Administration and Veterans Administration and such other secondary Mortgage Market Institution as the Board shall hereafter approve in writing, or (c) any and all investors or lenders, or the successors and assigns of such investors or lenders which have loaned money to Declarant to acquire, or construct improvements upon the Property and who have a mortgage lien on all or a portion of the Property securing such loan, or (d) a lender generally recognized in the community as an institutional lender.

Section 3.22 “Landscape Assessments” shall mean and refer to Assessments levied pursuant to Section 12.14 hereof.

Section 3.23 “Lot” shall mean and refer to a portion of the Properties, whether developed or undeveloped, intended for development, use or occupancy as an attached or detached residence for a single family and shall, unless otherwise specified, include within its meaning (by way of illustration, but not limitation) single family lots, attached or detached villas, cluster homes, patio or zero lot line homes, single-family detached houses on one (1) or more separately platted lots, condominium units, apartments, assisted living units as well as vacant land intended for development as such. The term shall include real property as well as any Home thereon, unless the context otherwise requires. In the case of an apartment building, condominium or other structure which contains multiple dwellings, each dwelling shall be deemed to be a separate Lot. Any two (2) or more platted lots which are under common ownership and on which a single Home has been constructed shall, unless otherwise provided in the original deed of conveyance by Declarant or Supplemental Declaration affecting such platted lots, be considered to be two (2) or more separate Lots for purposes of voting, assessment and all other matters hereunder. The term “Unimproved Lot” shall mean a Lot for which a foundation slab has not been poured.

In the case of a parcel of vacant land (which has not been platted into single family lots) or land (which is not intended to be developed into single family lots) , the parcel shall be deemed to contain the number of Lots designated for such parcel on the then current Site Plan as the same exists from time to time until such time as the parcel is subdivided into Lots by Plat or declaration of condominium.

Section 3.24 “Magnolia Landing” shall mean and refer to the master planned community anticipated to be developed on the Property.

Section 3.25 “Master Association” shall mean and refer to Magnolia Landing Master Association, Inc., a Florida not-for-profit corporation, its successors or assigns, whose purpose is to administer the Properties in accordance with the provisions of this Declaration.

Section 3.26 “Member” shall mean and refer to a Person entitled to membership in the Master Association, as provided herein and in the Bylaws.

Section 3.27 “Merchant Builder” shall mean and refer to all builders who purchase Lots or parcels of vacant land to construct Homes thereon and who are participants in any organized builder program which may be implemented by Declarant. Merchant Builders are not automatically successors or assigns of Declarant.

Section 3.28 “Owner” shall mean and refer to the record title holder, whether one (1) or more persons or entities, of the fee simple title to any Lot situated within or upon the Properties. Owners shall

not include any mortgagee unless and until such mortgagee has acquired title to a Lot pursuant to an action for foreclosure or any proceeding in lieu of foreclosure.

If a Lot is subject to a written lease with a term in excess of one (1) year and the lease specifically so provides, then upon filing a copy of the lease with the Board of Directors, the lessee (rather than the fee owner) will be considered the Owner for the purpose of exercising voting privileges of membership in the Master Association, provided the fee owner and lessee shall jointly and severally remain responsible for all obligations relative to such Lot.

Section 3.29 “Person” means a natural person, a corporation, a partnership, a trustee or any other legal entity.

Section 3.30 “Plat” or “Plats” shall mean any subdivision plat or plats recorded in the Public Records affecting any or all of the Properties.

Section 3.31 “Property” or “Properties” shall mean the real property legally described in Exhibit “A” attached hereto and incorporated herein, together with any additional property subjected to this Declaration from time to time, as all may be amended from time to time.

Section 3.32 “Public Records” shall mean and refer to the Public Records of Lee County, Florida.

Section 3.33 “Rules and Regulations” shall mean any rules and regulations adopted by the Board as the same may be amended from time to time.

Section 3.34 “Site Plan” shall mean and refer to the graphic plans developed by Declarant from time to time for development of the Properties currently or anticipated to be subject to this Declaration in the future, including subdivision into Lots and the number thereof. Information contained on a Site Plan may not be relied upon by any Member, Owner or Person and shall not bind Declarant to subject real property to this Declaration, or develop any portion of the Properties in any particular manner, fashion, with any particular number of Lots or amenities, or dedicate or convey any portion of the Property to the Master Association or other persons. Declarant may, in its sole and absolute discretion, from time to time amend the Site Plan. Any such amendment may increase or reduce the number of Lots, modify the configuration of the Property, alter density of Property, or change Common Areas anticipated to be developed within the Property. The Site Plan shall not conflict with recorded plats of the Property or recorded Declarations of Condominium, and in the event of a conflict, such plat or Declaration of Condominium shall control over the Site Plan.

Section 3.35 “Special Assessment” shall mean and refer to Assessments levied in accordance with Section 12.5 of this Declaration.

Section 3.36 “Supplemental Declaration” or “Supplement” shall mean an amendment or supplement to this Declaration executed by or consented to by Declarant or its successors in interest which subjects additional property to this Declaration and/or imposes, additional restrictions and obligations or removes restrictions and obligations on the land described therein.

Section 3.37 “Surface Water Management System” shall mean the portion of the Properties, including improvements thereon, which are designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from such system as permitted pursuant to Chapters 40E-4 or 40E-40, Florida Administrative Code, including, but not limited to, all lakes, retention areas, culverts, lakes, underground storm water treatment pipes, and related appurtenances and facilities.

Section 3.38 “Turnover” shall mean that date following conversion of Class “B” votes to Class “A” votes upon which Declarant transfers majority control of the Board as provided in the Bylaws.

Section 3.39 “Village” shall mean and refer to each portion of the Property in which Owners may have common interests other than those common to all Members, such as a common theme, entry feature, development name, and/or common areas and facilities which are not available for use by all Members. Where the context permits or requires, the term Village shall also refer to Village Association having jurisdiction over the property within the Village. A Village shall be deemed to be those Lots and portions of the Property subject to Village Documents or a Village Supplement.

Section 3.40 “Village Assessment” shall mean and refer to Assessments levied against Lots in a particular Village for Village Expenses. Any Village Assessment shall be levied equally against all Lots in the Village(s) benefiting from the services supported thereby, provided the Master Association’s Board of Directors may, in its sole discretion, reduce Village Assessments for Lots upon which a Home has not been completed as evidenced by a certificate of occupancy.

Section 3.41 “Village Association” shall mean or refer to any homeowners or condominium association which is formed for a particular Village to govern the business affairs and any property within that Village.

Section 3.42 “Village Committee” shall mean and refer to a committee of three (3) individuals who own a Lot within a Village who shall advise the Board of Directors on matters concerning Village Assessments. Village Committees shall be appointed or elected as provided in the Bylaws.

Section 3.43 “Village Documents” shall mean the declaration of covenants, conditions and restrictions or Declaration of Condominium and the articles of incorporation and Bylaws of a Village Association and any other documents governing a Village, all changes to such documents, and any and all budgets of such Village Associations, as adopted from time to time.

Section 3.44 “Village Expenses” shall mean and refer to the actual and estimated expenses to be incurred by the Master Association for the benefit of a Village, but only to the extent the same are authorized by this Declaration, Village Supplement, Village Documents or a vote of the Members within such Village, which may include a reasonable reserve for capital repairs and replacements, all as may be specifically authorized herein or in a Supplement. Village Expenses may be shared by one (1) or more benefited Villages.

Section 3.45 “Village Supplement” shall mean and refer to a Supplement to this Declaration designating a Village, establishing Village Assessments, establishing Exclusive Common Area for a Village or adding or deleting covenants, conditions, restrictions and easements for a Village.

ARTICLE IV

PROPERTY RIGHTS AND PROPERTY SUBJECT TO THIS DECLARATION AND ADDITIONS THERETO

Section 4.1 Property. The real property which initially is held, transferred, sold, conveyed and occupied subject to this Declaration is the Property described on Exhibit “A.” Declarant reserves the unilateral right and intends to expand the real property subject to this Declaration and, further, in Declarant’s sole discretion, to remove real property from this Declaration, all pursuant to the provisions of Article X of this Declaration.

Section 4.2 Enjoyment of Common Areas. Every Owner of a Lot shall have a right and easement of enjoyment in and to the Common Area for its intended purpose, subject to this Declaration, Rules and Regulations, payment of applicable Assessments and other fees and charges and subject to any restrictions or limitations imposed by law or in a recorded instrument or affecting such Property in any deed of conveyance to the Master Association. Each Owner acknowledges by acceptance of a real property interest or tenancy in a Lot that use of the Club Facilities is subject to Rules and Regulations, as

the same may be adopted or amended from time to time by the Board of Directors. Such Rules and Regulations may restrict the number of individuals or families who may use the Club Facilities as a result of ownership and/or occupancy of a Home. Certain portions of the Property may be subject to recorded conservation easements or use restrictions. Any Owner of a Lot may assign his or her right of enjoyment to the members of his or her family, lessees and social invitees, as applicable, subject to this Declaration, and reasonable regulation by the Board in accordance with Rules and Regulations adopted from time to time, which may impose use and/or other fees and charges relating to the use of the Club Facilities. An Owner who leases his or her Lot in compliance with the terms of this Declaration shall be deemed to have assigned all such rights to the lessee of the Lot, provided the Owner of the Lot shall be liable for the deportment of the Lessee and the Lessee's family and guests, as well as amounts owed by the Lessee to the Master Association which are not paid when due.

An Owner who is an individual or husband and wife shall have access to the Club Facilities for themselves and their immediate family (as defined in the Rules and Regulations). If an Owner is an entity or more than one individual (other than husband and wife), the Board of Directors may restrict access to the Club Facilities to one family or two unmarried individuals residing in the Lot designated by the Owner(s). THE ABILITY OF OWNER(S) TO CHANGE THE DESIGNEES MAY BE RESTRICTED BY THE BOARD OF DIRECTORS, AND UPON ANY CHANGE IN THE DESIGNEES MASTER ASSOCIATION MAY IMPOSE A REASONABLE REDESIGNATION FEE IN THE AMOUNT DETERMINED BY THE BOARD OF DIRECTORS.

The easement provided for herein shall be appurtenant to and shall pass with ownership of a Lot, but shall not be deemed to grant any ownership interest in the Common Property. The Master Association may, for disciplinary cause restrict or condition use of the Common Property by an Owner, his family, guests and invitees, provided the Master Association does not restrict an Owner, his family, guests and invitees access to a Lot.

Prior to Turnover, Declarant shall have the right, in its sole discretion, to permit non-residents to use the Club Facilities, on terms and conditions determined solely by Declarant. After the Turnover, the Board of Directors shall have the right, in its sole discretion, to permit non-residents to access and use the Club Facilities, on terms and conditions determined solely by the Board of Directors. Honorary Memberships, as further described in Section 19.3 herein, shall be authorized to access and use the Club Facilities prior to and after Turnover.

Section 4.3 Assumption of Risk and Indemnification. Each Owner hereby expressly assumes all risk and responsibility for noise, personal injury or property damage caused by maintenance, operation or use of Areas of Common Responsibility, including, without limitation: (a) noise from maintenance equipment, it being specifically understood that such maintenance may take place around sunrise or sunset, (b) noise caused by users of such property, (c) use of pesticides, herbicides and fertilizers, (d) view restrictions caused by planting and maturation of trees, shrubbery and berms (whether planted or installed prior to the Owner's occupancy of a Lot or subsequently planted or installed), (e) reduction in privacy caused by constant traffic on the roadways, or other Areas of Common Responsibility or the removal or pruning of shrubbery or trees on the Areas of Common Responsibility, (f) power lines running through the Property, and (g) design or modification of the Areas of Common Responsibility.

Without limiting the foregoing, all Persons using the Common Areas, including, without limitation, any recreational facilities, do so at their own risk. BY ACCEPTANCE OF A DEED, EACH OWNER ACKNOWLEDGES THAT THE COMMON AREAS AND AREAS OWNED BY THE CDD OR OWNER OF THE GOLF CLUB FACILITIES MAY CONTAIN WILDLIFE SUCH AS, BUT NOT LIMITED TO, ALLIGATORS AND SNAKES. DECLARANT, MERCHANT BUILDERS, CDD, MASTER ASSOCIATION AND VILLAGE ASSOCIATIONS SHALL HAVE NO RESPONSIBILITY FOR MONITORING OR REMOVING SUCH WILDLIFE OR NOTIFYING OWNERS OR OTHER PERSONS OF THE PRESENCE OF SUCH WILDLIFE OR THE DANGERS IMPOSED BY SUCH WILDLIFE. EACH OWNER AND HIS OR HER GUESTS AND INVITEES ARE RESPONSIBLE FOR THEIR OWN SAFETY.

To the maximum extent permitted by law, each Owner agrees to indemnify and hold harmless Declarant, the Master Association, the CDD, owner and operator of the Golf Club Facilities, and their respective shareholders, members, partners, directors, officers, partners, agents, employees, affiliates, directors and attorneys (collectively, "Indemnified Parties") against all actions, injury, claims, loss, liability, damages, costs and expenses of any kind or nature whatsoever ("Losses") incurred by or asserted against any of the Indemnified Parties from and after the date hereof, whether direct, indirect or consequential, as a result of or in any way related to use of property owned by Declarant, the CDD, the Master Association or owner of the Golf Club Facilities, including, without limitation, use of the lakes and other water bodies within Magnolia Landing by Owners, and their guests, family members, invitees or agents, or the interpretation of this Declaration and/or exhibits attached hereto and/or from any act of omission of the Indemnified Parties. Should any Owner bring suit against Declarant or any of the Indemnified Parties for any claim or matter and fail to obtain judgment therein against such Indemnified Parties, such Owner shall be liable to such parties for all Losses, costs and expenses incurred by the Indemnified Parties in the defense of such suit, including legal fees.

Section 4.4 Disciplinary Action. Every Owner, Member and occupant of any Lot, and all non-residents which are entitled to use the Club Facilities pursuant to the Rules and Regulations, their family, guests and invitees, shall comply with all lawful provisions of this Declaration, the Bylaws and the Rules and Regulations, all as may exist from time to time. Failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief, or for any other remedy available as provided in this Declaration, Bylaws and Rules and Regulations, or at law or in equity, maintainable by the Master Association or, in a proper case, by any aggrieved Member or person entitled to use the Club Facilities.

ARTICLE V MEMBERSHIP AND VOTING RIGHTS

Section 5.1 General. Every Owner of a Lot shall be deemed to have a Class "A" membership in the Master Association, as provided in Section 5.2 below.

No Owner of a Lot, whether one (1) or more Persons, shall have more than one (1) membership per Lot.

Section 5.2 Classes. The Master Association shall have three (3) classes of membership, Class "A", Class "B", and Class "C", as follows:

5.2.1 Class "A." Class "A" Members shall be all Owners of Lots with the exception of the Class "B" Member. Merchant Builders shall be Class "A" Members for each Lot owned by the Merchant Builder, provided the Merchant Builder shall have no right to vote on the Master Association matters, such voting rights being retained by Declarant until the conveyance of the Lot by a Merchant Builder to a retail purchaser of the Lot.

One (1) vote shall be attributable to each Lot for which a Class "A" membership is held.

5.2.2 Class "B." The Class "B" Member shall be Declarant. The Class "B" Member shall be entitled to five (5) votes for each Lot owned by Declarant. The Class "B" Member shall also be entitled to appoint all of the members of the Board of Directors prior to the "**Turnover Date**", as hereafter defined. On the Turnover Date, Class "B" votes will be converted to Class "A" votes.

5.2.3 Class "C." The Class "C" Member shall be the owner of the Golf Club Facilities. The Class "C" Member shall be entitled to ten (10) votes from and after the Turnover Date, the Class "C" Member, shall be entitled to appoint or elect one (1) Member to the Board of Directors who shall be a voting member if permitted by law, but if not so permitted such member shall be deemed an advisory member of the Board of Directors.

Section 5.3 Turnover Date. The Turnover Date shall occur on the earliest of the following conditions:

(a) Three (3) months after the closing of the sale of ninety percent (90%) of the Lots permitted on the Property to Owners other than Declarant or Merchant Builders; or

(b) such earlier date as determined by the Class "B" Member, in its sole and absolute discretion.

Declarant shall continue to be able to appoint one (1) member of the Board of Directors as long as Declarant and Merchant Builders hold for sale in the ordinary course of business at least five percent (5%) of the Lots in Magnolia Landing. After Declarant relinquishes control of the Master Association, Declarant may exercise the right to vote all of its voting interests in the same manner as any other Member, except for purposes of reacquiring control of the Master Association, or selecting the majority of the members of the Board of Directors.

Section 5.4 Administration of the Master Association. The affairs of the Master Association shall be administered by the Board of Directors in accordance with this Declaration, the Articles of Incorporation and the Bylaws. The Board of Directors shall not be required to obtain a vote of the Members on any matter, except as required by this Declaration, the Articles of Incorporation, Bylaws or applicable law. The Articles of Incorporation and the Bylaws may be amended in the manner set forth herein; however, no such amendment shall conflict with the terms of this Declaration or adversely affect the rights of Declarant, without the prior written approval of Declarant. Any attempt to amend this provision or any provision to the contrary shall be of no force or effect.

Section 5.5 Control by Declarant. As provided in the Articles of Incorporation and the Bylaws, the Board of Directors shall initially consist of the individuals named in the Articles of Incorporation, all appointed by Declarant. In accordance with the Bylaws, control of the Board of Directors shall be retained by Declarant until three months after closing of the sale of ninety percent (90%) of the Lots anticipated to be developed within Magnolia Landing to Owners other than Merchant Builders.

Section 5.6 Interpretation. The provisions of this Declaration as well as those of the Articles, Bylaws and any Rules and Regulations of the Master Association shall be interpreted by the Board of Directors. Any such interpretation of the Board which is rendered in good faith shall be final, binding and conclusive if the Board receives a written opinion of legal counsel to the Master Association, or the counsel having drafted this Declaration or other applicable document, that the interpretation of the Board of Directors is not unreasonable, which opinion may be rendered before or after the interpretation is adopted by the Board. Notwithstanding any rule of law to the contrary, the provisions of this Declaration and the Articles, Bylaws and the Rules and Regulations shall be liberally construed so as to effectuate the purposes herein expressed.

Section 5.7 Declarant's Rights in the Master Association. Prior to and after the Turnover and until conveyance of the last Lot by Declarant and Merchant Builders within Magnolia Landing, whether Declarant exercises the right to appoint or elect any or all of the members of the Board or not, the Board shall have no authority to, and shall not, without the written consent of Declarant, which may be withheld for any or no reason whatsoever, undertake any action which shall:

5.7.1 prohibit, restrict or interfere with, in any manner, the sales and marketing program of Declarant or any Merchant Builder, the leasing activities of Declarant or any Merchant Builder, or the construction activities of Declarant or any Merchant Builder;

5.7.2 decrease the level of maintenance or services existing immediately prior to Turnover (or Declarant's earlier relinquishment of the right to appoint the Board of Directors);

5.7.3 make any Special or Benefit Assessment against or impose any fine upon Declarant or any portions of the Property owned by Declarant;

5.7.4 change the membership of the ARC, diminish its powers as stated herein or make any other amendment to this Declaration which seeks to provide the Master Association direct or indirect control over the construction or development activities of Declarant or any Merchant Builder;

5.7.5 alter or amend the Declaration, the Articles, Bylaws or Rules and Regulations of the Master Association;

5.7.6 terminate or waive any rights of the Master Association under this Declaration;

5.7.7 convey, lease, mortgage, alienate or pledge any easements or Common Area of the Master Association;

5.7.8 accept the conveyance, lease, mortgage, alienation or pledge of any real or personal property to the Master Association;

5.7.9 terminate or cancel any easements granted hereunder or by the Master Association;

5.7.10 terminate or impair in any fashion any easements, powers or rights of Declarant or Merchant Builders hereunder;

5.7.11 restrict Declarant's rights to use, access and enjoy any of the Properties without cost or expense, other than charges for merchandise, food and beverage, and service charges at the same rate paid by Owner/Members in good standing, or

5.7.12 cause the Master Association to default on any obligation of it under any contract or this Declaration.

In any such matter, Declarant's consent shall be exercised by the person designated to so act by Declarant.

ARTICLE VI MAINTENANCE

Section 6.1 Preamble. The responsibility for the maintenance of the Properties is divided between the Master Association, Village Associations, the Owners, the CDD and the owner of the Golf Club Facilities. Unless otherwise provided in Village Documents, or in this Declaration, maintenance of Homes is the responsibility of the Owner thereof. Maintenance of all other portions of the Lots, unless otherwise provided in this Declaration, any Village Supplement or any Village Documents is the responsibility of the Owner thereof. Unless otherwise provided in any Supplement, the maintenance of the Areas of Common Responsibility is the responsibility of the Master Association in the manner provided in this Declaration, Plats, agreements or contracts. Maintenance of the Golf Club Facilities is the responsibility of the owner of the Golf Club Facilities. Maintenance of the property owned by the CDD is the responsibility of the CDD. The Board of Directors has the right to require the Owners or Village Associations, but not the CDD, to maintain their property under their control in accordance with the Community Wide Standards; and it is the responsibility of the Owner and any Village Association, to maintain landscaping in a neat and trimmed manner, and to keep the property (including improvements) in a neat and attractive condition and remove all objectionable debris or material as may be located on their Lot or common property.

Section 6.2 Maintenance by the Master Association. Commencing as of the date hereof, the Master Association shall operate, maintain and keep in working condition the Areas of Common Responsibility, which shall include without limitation all infrastructure dedicated or conveyed to the Association, (including without limitation common area, rights-of way, utility easements dedicated to the

Association, common area landscaping, common area recreational facilities and other common area, tracts and facilities) such maintenance to be funded as hereinafter provided. Operation of the Common Property shall include, without limitation, all utilities, taxes and assessments with respect to the Common Property, including the Club Facilities. The maintenance provided by the Master Association may include dispensing maintenance chemicals on Lots to the extent deemed necessary or desirable, in the judgment of the Board. The Master Association reserves a perpetual right and easement on and over and under all Properties to dispense maintenance chemicals and to take other action, which in the opinion of the Master Association is necessary or desirable to control insects, vermin, weeds and fungi on the Property exclusive of the interior of Homes constructed on Lots. THE PROVIDING OF MAINTENANCE CHEMICALS AS DESCRIBED ABOVE SHALL NOT BE CONSTRUED AS AN OBLIGATION ON THE PART OF MASTER ASSOCIATION TO PROVIDE SUCH SERVICES.

Except as otherwise specifically provided herein all costs associated with maintenance, repair and replacement of Areas of Common Responsibility shall be a Common Expense to be allocated among all Lots subject to assessment as part of the Common Assessment. Village Expenses are not Common Expenses and shall be assessed as a Village Assessment.

Any walls, fences and landscaping surrounding portions of the Property shall be maintained by the Master Association, if such property is within the Areas of Common Responsibility, and a perpetual easement of ingress and egress over the walls, fences and landscaping, and Lots is hereby granted to the Master Association for purposes of construction and maintenance activities related to any such walls, fences and landscaping. The Master Association shall exercise its powers of ingress and egress over a Lot in a manner which does not unreasonably interfere with use of the Lot over which ingress or egress is utilized.

The Master Association may contract with any Person for the management of all or part of the Property for purposes of carrying out all or a portion of the maintenance services provided for in the Declaration.

Trees bordering the pavement edge of the roadways (street trees) as installed by Declarant or Merchant Builder throughout the Properties pursuant to a community-wide tree program will be maintained by the Master Association including trimming, fertilization and replacement. Each Owner shall be responsible for the proper irrigation of these trees and the cost of any maintenance, repair or replacement caused by the neglect of an Owner to maintain their irrigation system in a proper manner will be levied as a Benefit Assessment against such Owner. Owners shall be responsible for maintenance of trees bordering the pavement edge of the roadway to the extent installed by the Owner or by a Merchant Builder for the Owner, provided an Owner or Merchant Builder shall not install such trees unless approved in accordance with Article XIII hereof.

In the event the Master Association shall fail to carry out any of its maintenance activities hereunder, then any aggrieved Owner(s) may seek to specifically enforce the provisions of this Declaration subject to the terms and provisions hereof. In no event shall Declarant be subject to an aggrieved Owner's action concerning the Master Association's maintenance responsibilities.

Section 6.3 Owner's Responsibility. Each Owner shall maintain his or her Lot including structures, parking areas, and other improvements thereon, unless such maintenance is the responsibility of Village Association pursuant to Village Documents. In the event a Home constructed on a Lot is going to be unoccupied for a consecutive period of one (1) month or longer, the Master Association may require the Owner to designate a responsible firm or individual to undertake his or her general maintenance responsibilities, which responsibilities shall include, at a minimum, maintaining exterior appearance, safeguarding the property to prepare for severe weather and repairing the property in the event of any damage therefrom. At the request of the Master Association, the name(s) and address of such firm or individual must be furnished to the Master Association. Notwithstanding anything to the contrary herein, unless otherwise the responsibility of a Village Association.

THE ASSOCIATION SHALL BE RESPONSIBLE FOR MAINTENANCE OF ALL TREES, SHRUBBERY, GRASS AND OTHER LANDSCAPING ON EACH OWNER'S LOT, AS ORIGINALLY INSTALLED, WHICH THE ASSOCIATION WILL MAINTAIN IN A NEAT AND ATTRACTIVE MANNER AND CONSISTENT WITH THE GENERAL APPEARANCE OF THE PROPERTIES, EXCEPT THAT THE ASSOCIATION WILL NOT MAINTAIN TREES, SHRUBBERY, GRASS OR LANDSCAPING IN ANY AREAS THAT HAVE BEEN ENCLOSED OR BLOCKED BY SCREENING. WITH RESPECT TO LOTS ABUTTING LAKES OR PONDS, THE ASSOCIATION SHALL BE RESPONSIBLE FOR MAINTENANCE OF ALL TREES, SHRUBBERY AND OTHER LANDSCAPING LOCATED BETWEEN THE BOUNDARY OF THE OWNER'S LOT UP TO AND INCLUDING THE ENTIRE LAND AREA TEN FEET (10') BEYOND THE WATER'S EDGE OF SUCH LAKE OR POND. MAINTENANCE OF TREES, SHRUBBERY AND PLANTS WILL APPLY ONLY TO SUCH LANDSCAPING ORIGINALLY INSTALLED, AND THE ASSOCIATION SHALL NOT BE RESPONSIBLE FOR THE REPLACEMENT THEREOF (WHICH SHALL BE THE OWNER'S RESPONSIBILITY AND OBLIGATION). THE MINIMUM (THOUGH NOT SOLE) STANDARD FOR THE FOREGOING SHALL BE THE GENERAL APPEARANCE OF THE PROPERTIES AS INITIALLY LANDSCAPED (SUCH STANDARD BEING SUBJECT TO BEING RAISED BY VIRTUE OF THE NATURAL AND ORDERLY GROWTH AND MATURATION OF APPLICABLE LANDSCAPING AS PROPERLY TRIMMED AND MAINTAINED). THE ASSOCIATION, AT THE OPTION OF THE BOARD OF DIRECTORS, MAY REPLACE TREES, SHRUBBERY, GRASS AND OTHER LANDSCAPING AS ORIGINALLY INSTALLED IN THE EVENT OF AN ACT OF GOD OR OTHER EVENT AFFECTING THE PROPERTIES. THE ASSOCIATION SHALL ALSO MAINTAIN THE SPRINKLER SYSTEMS ORIGINALLY INSTALLED BY THE DECLARANT, OR MERCHANT BUILDERS EXCLUDING PORTIONS OF SPRINKLER SYSTEMS WITHIN SCREENED OR ENCLOSED AREAS, BUT SHALL HAVE NO OBLIGATION TO REPLACE ANY PORTIONS OF THE SPRINKLER SYSTEM UNLESS THE ASSOCIATION DEEMS IT APPROPRIATE TO REPAIR OR REPLACE THE SAME. THE ASSOCIATION MAY ELECT TO ASSESS INDIVIDUAL LOT OWNERS FOR THE RESPONSIBILITY OF MAINTAINING LANDSCAPE AND SPRINKLER SYSTEM UPGRADES.

If a Lot is abuts the golf course, the Lot's irrigation system shall irrigate no less than twenty-five feet (25') onto the golf course. Owners may not block access or maintenance easements within or abutting their Lots and within such areas only sod is permitted to be planted.

All maintenance required by this Section 6.3 shall be performed in a manner consistent with the Community Wide Standards. After ten (10) days' notice by the Board of Directors to correct deficient maintenance, if said deficiencies remain uncured, then the Board of Directors shall have the absolute right to contract for and to perform maintenance as shall be prescribed by the Board of Directors and for the purpose the Owner grants unto the Board of Directors, its agents, employees, and all others designated by the Board of Directors, the right to enter upon the property of the Owner for the purpose of completing such maintenance work, all without liability or responsibility, criminal or civil, for trespass or any other action. Advance notice shall not be required if the Master Association determines an emergency condition exists. The cost of such work required by the Board of Directors to cure maintenance deficiencies (together with an administrative surcharge equal to 10% of such cost) shall be assessed against the Owner and his or her Lot as a Benefit Assessment and shall be subject to all lien rights provided herein.

Section 6.4 Village Association's Responsibility. Any Village Association having responsibility for maintenance of all or a portion of the Property within a particular Village pursuant to Village Documents shall perform such maintenance responsibility in a manner consistent with the Community-Wide Standard. In the event that Village Association fails to adequately maintain Property for which it is responsible, the Master Association shall have the right, but not the obligation, to maintain such Property and to assess the costs against the Lots located within the Village, which the Master Association deems to be benefited by the maintenance performed by the Master Association. Each such Owner of a Lot shall pay its share of such expenses incurred by the Master Association together with an administrative surcharge of ten percent (10%) of such amount. Such Assessments may be collected as Benefit Assessments hereunder and shall be subject to all lien rights provided herein.

Any Village Association whose common property fronts on any roadway within the Properties shall, at Village Association's expense, maintain and irrigate the landscaping on that portion of the right-of-way between the property line and the nearest curb of such roadway. Any Village Association whose common property fronts the water's edge, or greenbelt buffer fronting the water's edge, of any lake or other body of water within the Properties shall maintain, at Village Association's expense, and irrigate all landscaping between its property line and such water's edge. Any Village Association whose common property fronts on the golf course shall irrigate no less than twenty-five feet (25') onto the golf course. Village Association performing the foregoing maintenance shall have no right to plant or remove trees, shrubs or similar vegetation from this area without prior approval pursuant to Article XIII hereof.

Section 6.5 CDD. The CDD shall maintain all Property which is owned by, dedicated to or controlled by the CDD including all infrastructure dedicated or conveyed to the CDD (including without limitation CDD owned rights-of-way, utility easements dedicated to the CDD, conservation or preservation areas and CDD owned landscaping, golf cart and pedestrian bridges crossing surface water management lakes and other CDD owned facilities) such maintenance shall be funded by taxes, assessments or fees and charges to be levied by the CDD. Portions of the Property owned or controlled by the CDD may be maintained by the Master Association through a separate agreement between the CDD and the Master Association, which may provide the costs of maintenance, shall be paid by the Master Association. The CDD and the owner of the Golf Course Facilities anticipate entering into an agreement which obligates the owner of the Golf Course Facilities to maintain, repair, and when necessary, replace golf cart and pedestrian bridges utilized in connection with golf play which cross surface water management lakes.

Any walls, fences and landscaping surrounding portions of the Property shall be maintained by the CDD, if such property is within the property owned by the CDD, and a perpetual easement of ingress and egress over the walls, fences and landscaping, Lots, Common Areas, and Village Association common areas is hereby granted to the CDD for purposes of construction and maintenance activities related to any such walls, fences and landscaping. The CDD shall exercise its powers of ingress and egress in a manner which does not unreasonably interfere with use of the Property over which ingress and egress is utilized.

Section 6.6 Cooperation with Village Associations. The Board shall have the power to assist a Village Association in the performance of their duties and obligations under the Village Documents and cooperate with Village Association so that Village Association and the Master Association can more efficiently and economically provide all required services to the Owners. It is contemplated that from time to time Village Association or the Master Association may use the services of each other in the furtherance of its goals and obligations and that they may contract with each other to better provide for such cooperation. Village Documents may impose higher standards of maintenance and conduct than this Declaration, the Rules and Regulations and the Community Wide Standards. Village Documents may not impose less stringent standards on maintenance and conduct than those imposed by or in accordance with this Declaration. In the event standards set forth in this Declaration or by the Master Association conflict with Village Documents or standards of conduct or maintenance set by a Village Association, this Declaration and the standards of the Master Association shall control.

Section 6.7 Surface Water Drainage and Management System.

6.7.1 All Owners acknowledge that the Property is located within the boundaries of the South Florida Water Management District. Due to ground water elevations underneath the Property, priorities established by governmental authorities and other causes outside of the reasonable control of Declarant, the Master Association and the CDD, lake water levels may fluctuate and such fluctuations may be material and may result in exposure of lake banks. Neither Declarant, the Master Association nor the CDD shall have any liability for aesthetic conditions, damage to plantings or direct or consequential damages of any nature caused by the fluctuation of water levels.

6.7.2 The Surface Water Management System shall be conveyed or dedicated to the CDD. The CDD, without consideration, grants to Declarant the sole right to use surface water lakes for withdrawal of water for irrigation of Lots and Common Property. Notwithstanding the foregoing, the

CDD shall have the right to withdraw irrigation water to irrigate CDD property. Declarant and CDD will cooperate in renewing any permits permitting the recharge of the surface water lakes and withdrawal of water for irrigation from the Surface Water Management System. The CDD shall be responsible for the maintenance and operation of the Surface Water Management System.

6.7.3 No Person shall take any action which modifies the Surface Water Management System in a manner which changes the flow of drainage of surface water, except to the extent the same is approved by the requisite governmental or quasi-governmental authorities or Declarant until completion of the last Home to be constructed on the Properties, and the party who has the obligation to maintain the Surface Water Management System.

6.7.4 The Property, including without limitation the Golf Course Facilities, shall be burdened with easements for drainage and flow of surface water in a manner consistent with the approved and constructed Surface Water Management System.

6.7.5 Portions of the Surface Water Management System may be located adjacent to or within the boundaries of the Golf Club Facilities. Such areas of the Surface Water Management System are hereby burdened with a permanent easement for reasonable use in connection with golf play and operation of a golf course, including, without limitation, play over such bodies of water, golf cart bridges over such bodies of water, retrieval of golf balls by persons utilizing the golf course, and drainage of the Golf Club Facilities into the Surface Water Management System. No person other than the owner of the Golf Club Facilities shall have the right to retrieve any golf balls which are not retrieved by golfers during play.

6.7.6 Declarant, the Master Association, the CDD and the South Florida Water Management District shall have a non-exclusive easement for use of the Surface Water Management System, and an easement for ingress, egress and access to enter upon any portion of the Property, excluding any portions of the Property on which a permanent structure exists or upon which construction is planned, in order to construct, maintain or repair, as necessary, any portion of the Surface Water Management System and any improvement constructed or to be constructed thereon, provided such easement rights shall be exercised in a manner which does not unreasonably disturb use or condition of the Properties.

6.7.7 The South Florida Water Management District, the Master Association, CDD, Village Associations, Declarant, the owner of the Golf Club Facilities, and each Owner shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation, monitoring, repair and replacement of the Surface Water Management System. Notwithstanding the foregoing, the South Florida Water Management District has the right to take enforcement action, including a civil action for injunction and penalties, against the CDD to compel it to correct any outstanding problems with the Surface Water Management System facilities or in mitigation or conservation areas.

6.7.8 The Property will comply with the Urban Stormwater Management Program attached hereto as Exhibit D. The Master Association will be responsible for compliance with said Urban Stormwater Management Program.

6.7.9 The Property will comply with Construction Pollution Prevention Plan attached hereto as Exhibit E. The Mater Association will be responsible for compliance with said Construction Pollution Prevention Plan.

Section 6.8 Amendments of Declaration. Any amendment of this Declaration which would affect the Surface Water Management System (including the water management portions of the Common Areas) or the responsibility of the CDD to maintain or cause to be maintained the Surface Water Management System must be reviewed by South Florida Water Management District to determine whether the amendment necessitates a modification of the surface water management permit. The amendment may not be finalized until any necessary permit modification is approved.

Section 6.9 Conservation and Preservation Areas. Certain portions of the Property contain or are adjacent to wetland preservation or mitigation areas and upland buffers that are or will be designated as conservation areas on the plats for the Property ("**Conservation Areas**"), which Conservation Areas may be protected by and be subject to a conservation easement in favor of the South Florida Water Management District, and/or a conservation easement in favor of the U.S. Army Corps of Engineers ("**Conservation Easements**"). Declarant or CDD shall establish the Conservation Areas and Conservation Easements as required applicable law and governmental permit conditions, and any wildlife management plans of any state or federal agency.

The Conservation Areas shall be maintained and managed by the CDD, and the CDD shall enforce the terms and conditions of the Conservation Easements in accordance with all original permit conditions and/or governmental approval requirements. The wetlands and upland buffers may not be altered from their natural/permitted condition. Maintenance of Conservation Areas and wetlands is permitted and may include removal of exotic and wildlife vegetation and replanting of native or approved vegetation in accordance with applicable governmental permits. Each Owner acknowledges that such areas are natural areas and maintenance and use of said areas is restricted to and limited by governmental requirements and recorded easements and restrictions.

ARTICLE VII INSURANCE AND CASUALTY LOSSES

Section 7.1 Insurance. The Master Association's Board of Directors or its duly authorized agent shall have the authority to and shall obtain blanket all-risk coverage insurance for all insurable improvements on the Common Area, or if blanket all-risk coverage is not reasonably available, then, at a minimum, an insurance policy covering loss or damage by fire, windstorm, or other hazards, including extended coverage, vandalism and malicious mischief. The Board of Directors may obtain insurance on Areas of Common Responsibility which are not Common Areas. This insurance shall be in an amount sufficient to cover one hundred percent (100%) of the replacement cost of any repair or reconstruction in the event of damage or destruction from such hazard less reasonable market deductibles.

The Master Association shall not have any insurance responsibility for any Lot, common area of a Village Association, or the Golf Club Facilities.

Insurance obtained by a Village Association on Common Areas or Homes within any Village, shall, at minimum, comply with the applicable provisions of this Section 7.1, including the provisions of this Article applicable to policy provisions, loss adjustment and all other subjects to which this Article applies with regard to insurance on the Common Area. All such insurance shall be for the full replacement cost (less a reasonable market deductible). All such policies shall provide for a certificate of insurance to be furnished to the Master Association.

The Board shall also obtain a public liability policy covering the Common Areas, the Master Association, and its Members for all damage or injury caused by the negligence of the Master Association or any of its Members or agents, and, if available at a reasonable cost, directors' and officers' liability insurance. The public liability policy shall have adequate limits as reasonably determined by the Board of Directors.

Premiums for all insurance on the Common Area shall be Common Expenses of the Master Association and shall be included in the Common Assessment. Insurance policies may contain a reasonable market deductible, and in the case of casualty insurance, the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

All insurance coverage obtained by the Board of Directors shall be written in the name of the Master Association (or prior to Turnover may be an allocation of Declarant's blanket insurance policy) as

trustee for the respective benefited parties, as further identified below. Such insurance shall be governed by the provisions hereinafter set forth.

7.1.1 All policies shall be written with a company authorized to do business in Florida which holds a Best's rating of A.

7.1.2 All policies on the Common Areas shall be for the benefit of the Master Association and the Owners.

7.1.3 Exclusive authority to adjust losses under policies obtained by the Master Association on the Properties shall be vested in the Master Association's Board of Directors. No First Mortgagee or other lienholder shall have any right of participation with respect to losses pertaining to the Common Areas.

7.1.4 In no event shall the insurance coverage obtained and maintained by the Master Association's Board of Directors hereunder be brought into contribution with insurance purchased by Village Associations, individual Owners, occupants, or their First Mortgagees and the insurance carried by the Master Association shall be primary.

7.1.5 All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement.

7.1.6 The Master Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

7.1.6.1 a waiver of subrogation by the insurer as to any claims against the Master Association's Board of Directors, the Owners, and their respective tenants, servants, agents and guests.

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

7.1.6.3 a statement that no policy may be cancelled, invalidated, suspended or subject to non-renewal on account of any one (1) or more individual Owners;

7.1.6.4 a statement that no policy may be cancelled, invalidated, suspended or subject to non-renewal on account of the conduct of any director, officer or employee of the Master Association or its duly authorized manager without prior demand, in writing, delivered to the Master Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Master Association, its manager or any Owner;

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

7.1.6.6 that the Master Association will be given at least thirty (30) days' prior written notice of any cancellation, substantial modification or non-renewal.

Fidelity bonds, if acquired, shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall require at least thirty (30) days' prior written notice to the Master Association of any cancellation, substantial modification or non-renewal.

Section 7.2 Individual Insurance. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Master Association that each Owner shall carry homeowners insurance on the Lot(s) and structures constructed thereon, insuring, at a minimum, against windstorm, fire damage and vandalism. Each Owner of a Lot further covenants and agrees that in the event of a partial loss or damage to a Home, the Owner shall remove all debris within thirty (30) days after the damage or destruction and complete repair or reconstruction of the Home within six (6) months thereafter, subject to force majeure in both instances, in a manner consistent with the original construction (updated for applicable change in building codes) or such other plans and specifications as are approved in accordance with Article XIII of this Declaration. The Owner shall pay any costs of repair or reconstruction which are not covered by insurance proceeds. In the event that a Home is damaged to an extent it must be razed to be reconstructed, the Owner of the Lot may decide not to rebuild or not to reconstruct, in which case the Owner, subject to force majeure shall clear the Lot of all debris within thirty (30) days after the damage or destruction, return the Lot to substantially the natural state in which it existed prior to the beginning of construction, fully sod and provide an underground irrigation system for the Lot and thereafter the Lot shall be considered an Unimproved Lot which shall be maintained in a neat and attractive condition consistent with the Community Wide Standards until such time in the future the Owner desires to construct a Home thereon. In the event a Home is totally destroyed and an Owner determines to rebuild or reconstruct, all debris shall be removed within thirty (30) days after the damage or destruction and reconstruction shall be completed within six (6) months thereafter, subject to force majeure in both cases. Each Owner agrees to provide the Master Association with proof of insurance as outlined in this Section if requested.

In the event an Owner fails to maintain insurance required by this Section 7.2, the Master Association may, but is not obligated to, obtain insurance on behalf of the Owner and assess the Owner and his Lot the cost thereof as a Benefit Assessment.

Section 7.3 Damage and Destruction to Areas of Common Responsibility.

7.3.1 Immediately after damage or destruction by fire or other casualty to all or any part of the Areas of Common Responsibility covered by insurance written in the name of the Master Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed improvements. Repair or reconstruction, as used in this paragraph, means repairing or restoring the affected portion of the improvements 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, other governmental requirements or otherwise determined to be appropriate by the Board of Directors.

7.3.2 Any damage or destruction to the Common Area shall be repaired or reconstructed unless (a) if Common Area, the Members representing at least seventy-five percent (75%) of the votes attributable to Lots, or (b) if Exclusive Common Area, the Members representing at least seventy-five percent (75%) of the total votes of Lots within the Villages who use or benefit from the Exclusive Common Area; shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Master Association within said period, then the period shall be extended until such funds or information shall be made available. No holder of any lien relative to the Properties or any Lot therein shall have the right to participate in the determination of whether the damage or destruction to Common Area or Exclusive Common Area shall be repaired or constructed.

7.3.3 In the event that it should be determined in the manner described above that the Common Area or Exclusive Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Properties shall be restored to their natural state and maintained undeveloped by the Master Association in a neat and attractive condition consistent with the Community Wide Standards.

Section 7.4 Disbursement of Proceeds.

7.4.1 Proceeds of insurance policies shall be disbursed as follows: If the damage or destruction for which the proceeds of insurance policies 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, or in the event no repair or reconstruction is made (after making such settlement as is necessary and appropriate with the affected Owner or Owners and their mortgagee(s), as their interest may appear, if any Lot is involved), shall, if the same relates to Common Area, be retained by and for the benefit of the Master Association and placed in a capital improvements account. This is a covenant for the benefit of any First Mortgagee of a Lot and may be enforced by such First Mortgagee.

7.4.2 If it is determined, as provided in Section 7.3 of this Article, that the damage or destruction to the Common Area for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed in the manner as provided for excess proceeds described above.

Section 7.5 Repair and Reconstruction. If the damage or destruction to the Common Area or Exclusive 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 Members, levy a Special Assessment against (a) all Owners, if Common Area, on the same basis as provided for Common Assessments, or (b) Owners within the Villages benefited by the Exclusive Common Area, if Exclusive Common Area, on the same basis as Village Assessments. Additional Assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

**ARTICLE VIII
NO PARTITION**

Except as is permitted in this Declaration or amendments hereto, there shall be no judicial partition of the Common Area or any part thereof, nor shall any Person acquiring any interest in the Properties or any part thereof seek any judicial partition, unless the Property has been removed from the provisions of this Declaration.

**ARTICLE IX
CONDEMNATION**

Whenever all or any part of the Common Area shall be taken by condemnation or conveyed in lieu of and under threat of condemnation, the award made for such taking shall be payable to the Master Association, as trustee for all Owners, to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking Declarant, so long as Declarant owns any property subject to this Declaration, and Members representing at least sixty-seven percent (67%) of the total votes within the Master Association shall otherwise agree, the Master Association shall restore or replace such improvements so taken on the remaining land included in the Common Area to the extent lands are available therefor, in accordance with plans approved by the Board of Directors of the Master Association. If such improvements are to be repaired or restored, the provisions regarding the disbursement of funds in respect to casualty, damage or destruction which is to be repaired shall apply.

If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are funds remaining after any such restoration or replacement is completed, then such award or funds shall be disbursed to the Master Association and used for capital replacements, capital improvements and/or capital additions, as the Board of Directors of the Master Association shall determine, in its sole discretion.

ARTICLE X ANNEXATION AND REMOVAL

Section 10.1 Annexation Without Approval of Membership. Until Turnover, Declarant shall have the right, privilege and option, from time to time, to annex real property to the provisions of this Declaration and the jurisdiction of the Master Association. Each Owner acknowledges it is Declarant's intention to develop Magnolia Landing in phases and, as a result, Declarant currently intends to periodically annex real property to this Declaration. Such right of Declarant shall be unilateral and subject solely to the consent of the owner and any mortgagee of the real property to be annexed. Such annexation shall be accomplished by filing in the Public Records a Supplemental Declaration annexing such property executed solely by Declarant, and the owner and mortgagee, if any, of such real property. Such Supplemental Declaration shall not require the consent of the Master Association, the Board or the Members. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein. Said Supplemental Declaration may also impose additional restrictions, or remove or limit restrictions contained herein.

Section 10.2 Annexation With Approval of Membership. After Turnover, upon the written consent or affirmative vote of a majority of the votes represented by the Members present at a meeting duly called for such purpose, the Master Association may annex real property to the provisions of this Declaration and the jurisdiction of the Master Association by filing of record in the Public Records a Supplemental Declaration describing the property to be annexed and the owner of the real property to be annexed. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Master Association, and by the owner and any mortgagee of the property being annexed, and any such annexation shall be effective upon filing unless otherwise provided therein. The relevant provisions of the Bylaws dealing with regular or special meetings, as the case may be, shall apply to determine the time required for and the proper form or notice of any meeting called for the purpose of considering annexation of property pursuant to this Section 10.2 and to ascertain the presence of a quorum at such meeting.

Section 10.3 Obligations of Annexed Property. All Lots on real property annexed to this Declaration shall pay the same Common Assessments, and shall have the same voting privileges as those Lots within the initial Property.

Section 10.4 Acquisition of Additional Common Area. Declarant may convey to the Master Association additional real estate, improved or unimproved, located within the Properties which, upon conveyance or dedication to the Master Association, shall be accepted by the Master Association without further action and thereafter shall be maintained by the Master Association at its expense for the benefit of its Members as Common Area.

Section 10.5 Removal of Property. Declarant reserves the right to amend this Declaration from time to time prior to Turnover, in its sole discretion, without the prior notice or consent of any Person to remove any portions of the Property then owned by Declarant (or any affiliate of Declarant) or by the Master Association from the provisions of this Declaration if and to the extent such Property was originally subjected to this Declaration in error or if Declarant changes the development plan for the Properties; provided, however, that Declarant, concurrently with such removal, shall grant and/or confirm such easements as are necessary or requisite relative to the maintenance and/or construction of those Lots theretofore conveyed by Declarant and the property removed from this Declaration.

Section 10.6 Amendment. This Article shall not be amended without the prior written consent of Declarant.

ARTICLE XI RIGHTS AND OBLIGATIONS OF MASTER ASSOCIATION

Section 11.1 Common Area.

11.1.1 Subject to the terms and conditions of the Declaration, Declarant will initially construct, furnish and equip, at its expense, the Common Property, including the Club Facilities; provided, however, Declarant, in its sole discretion, may lease some or all of the furniture, fixtures and equipment required for the operation and/or maintenance of the Common Property. On or before Turnover, Declarant shall convey its interest in the Common Property to the Master Association. The Master Association shall accept title to any interest in real or personal property transferred to it by Declarant. Property interests transferred to the Master Association by Declarant may include fee simple title, easements, leasehold interests and licenses to use. Any fee simple interest in Property transferred to the Master Association by Declarant shall be transferred to the Master Association by quit claim deed, free and clear of all liens (other than any mortgage lien granted by Declarant permitted by this Declaration or which will be paid in full by Declarant on or before Turnover and the lien for property taxes and assessments not then due and payable), but shall be subject to the terms of this Declaration, and any and all easements, rights-of-way, reservations, covenants, conditions, restrictions, equitable servitudes and other encumbrances and matters of record or reserved by Declarant in the instrument of conveyance, which may include reservation of use by Declarant. The Property or interest in Property transferred to the Master Association by Declarant may impose special restrictions governing the uses of such Property and special obligations on the Master Association with respect to the maintenance of such Property. No title insurance, title opinion or survey shall be provided to the Master Association by Declarant. All costs and expenses of any conveyance of any Property by Declarant to the Master Association shall be paid for by the Master Association.

MASTER ASSOCIATION SHALL ACCEPT "WHERE IS, AS IS" THE CONVEYANCE OF SUCH PROPERTY WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, IN FACT OR BY LAW, WITH RESPECT THERETO, OR WITH RESPECT TO THE IMPROVEMENTS, INCLUDING, WITHOUT LIMITATION, REPRESENTATIONS OR WARRANTIES OF MERCHANTABILITY OR FITNESS FOR THE ORDINARY OR ANY PARTICULAR PURPOSE, AND WITHOUT ANY REPRESENTATIONS OR WARRANTIES REGARDING THE CONDITION, CONSTRUCTION, ACCURACY, COMPLETENESS, DESIGN, ADEQUACY OF THE SIZE OR CAPACITY IN RELATION TO THE UTILIZATION, DATE OF COMPLETION OR THE FUTURE ECONOMIC PERFORMANCE OR OPERATIONS OF, OR THE MATERIALS, EQUIPMENT, FURNITURE OR FIXTURES WHICH HAS BEEN OR WILL BE USED IN SUCH PROPERTY, EXCEPT AS SET FORTH HEREIN. BY ACCEPTANCE OF AN INTEREST IN ANY SUCH PROPERTY OR THE DEED TO ANY LOT, MASTER ASSOCIATION AND ALL OWNERS RELEASE DECLARANT FROM ANY CLAIMS AND WARRANTY THAT NO CLAIM SHALL BE MADE BY MASTER ASSOCIATION OR ANY OWNER RELATING TO THE CONSTRUCTION, CONDITION, ADEQUACY, SIZE, CAPACITY, DESIGN, FITNESS, ECONOMIC PERFORMANCE OR COMPLETENESS OF SUCH PROPERTY OR REPAIRS, REPLACEMENTS OR FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING THEREFROM.

11.1.2 The Master Association shall be responsible for the management and control of the Areas of Common Responsibility and shall maintain and keep the Areas of Common Responsibility in working condition, ordinary wear and tear excepted, such maintenance to be funded as herein provided. Capital replacements, capital repairs and capital additions to the Common Area shall be funded solely from reserves which may be collected by the Master Association, or Special Assessments or contributions to capital. Declarant shall, at its expense, fund the initial cost of construction of the Club Facilities and Common Area, provided Declarant shall be reimbursed a portion of the costs of construction from contributions to capital as described in Section 12.13. Said payment to Declarant shall not be deemed a dividend or distribution by the Master Association, but shall be a reimbursement of costs advanced by Declarant.

Section 11.2 Maintenance and Indemnity. Notwithstanding the fact that Declarant may initially retain ownership of the Common Areas, the Master Association shall, pursuant to this Declaration, be responsible for the management, maintenance and operation of the Common Areas, including, without limitation, all property taxes and other assessments which are liens against the Common Areas, from and after the date of recordation of this Declaration. The Master Association will indemnify, defend and hold harmless Declarant and its successors and assigns, and their affiliates, partners, employees and agents against and in respect of, and reimburse the same on demand for, any and all claims, demands, losses,

costs, expenses, settlements, obligations, liabilities, damages, recoveries and deficiencies, including, but not limited to, interest, penalties, attorneys and paralegals' fees and disbursements (even if incident of any appeals) Declarant or its successors or assigns, and their partners, affiliates, officers, stockholders, directors, employees or agents incur or suffer which arise, result from or relate to the ownership, operation or management of the Common Areas or any other activities of the Master Association after the date of this Declaration other than any act resulting from the gross negligence or willful misconduct by Declarant. To the extent necessary, the Master Association shall levy a Special Assessment against Owners other than Declarant to cover the costs of indemnity.

Section 11.3 Rules and Regulations. Prior to Turnover, Declarant may make and enforce reasonable Rules and Regulations governing use of the Properties. The Master Association, through its Board of Directors, may also make and enforce reasonable Rules and Regulations governing the use of the Properties, which Rules and Regulations shall be consistent with the rights and duties established by this Declaration and those established by Declarant. Sanctions may include reasonable monetary fines which shall constitute a lien upon the Owner's Lot or Lots and, subject to any limitations imposed by this Declaration, the suspension of the right to use any Common Area, including, without limitation, the Club Facilities, and exclusion from the Properties of any contractor, subcontractor, agent or other invitee who fails to comply with the provisions of such Rules and Regulations. The Board shall, in addition, have the power to seek legal and equitable relief in any court. Imposition of sanctions shall be subject to the procedures for disciplinary action provided in the Bylaws of the Master Association. Fines shall constitute Benefit Assessments subject to the lien rights provided in this Declaration.

Except to the extent prohibited by law, the Master Association, through the Board, shall have the right to enforce all applicable federal, state and local laws, ordinances and regulations on the Properties.

Section 11.4 Non-Owner Use of Club Facilities. The Master Association shall own and/or operate the Club Facilities. The Rules And Regulations established for the Club Facilities may permit non-members to use the Club Facilities on a daily, short term or long term basis. Declarant, prior to Turnover, and the Board, subsequent to Turnover, shall determine, in its sole discretion, the terms of use of the Club Facilities by non-Owners, including the cost of membership, privileges and the term of membership or access which shall be consistent with this Declaration. Until Turnover, Declarant is authorized and intends to actively promote non-Owner use to offset expenses of operation of the Club Facilities.

Section 11.5 Promotional Access and Use of Club Facilities.

(a) Until the initial retail sale of all Homes to be developed within the Property, Declarant is entitled to designate, on a complimentary basis, non-Owner members with privileges to use the Club Facilities on terms and conditions established by Declarant. Neither Declarant nor the temporary members designated to use the Club Facilities shall be obligated to pay any annual Assessments except as Declarant may require. The Master Association shall establish separate accounts for each person designated to use the Club Facilities pursuant to this Section, and shall bill such individual directly for charges to their account. The designees of Declarant that use the Club Facilities shall pay their personal food, beverage, merchandise, and charges for their guests, all on the same basis as Owner/Members.

(b) Prior to Turnover, Declarant and its affiliates further have the right to schedule and hold marketing, promotional and other events and tournaments (whether in season or out of season) using the Club Facilities, including, without limitation, tournaments and exhibitions.

(c) Both before and after the Turnover, Declarant and its affiliates further have the right to access and use the Common Property, excepting the Club Facilities, and may promote Club Facilities in advertisements, promotional materials and other promotional media by making reference to the Club Facilities, including use of photographs of the Club Facilities and activities taking place at the Club Facilities. Declarant's use of the Club Facilities after Turnover shall be limited to Honorary Members.

Section 11.6 Acquisition of Accounts, Inventory and Prepaid Items. On the Turnover Date, the Master Association shall provide to Declarant a cash payment in an amount representing the book value of (a) all accounts receivable existing as of the Turnover Date, (b) all prepaid contracts, and (c) all pro shop, food and beverage, supply, and other consumable inventories existing as of the Turnover Date, less any accounts payable related to the same. Declarant may withdraw such amount from the Master Association's cash accounts immediately prior to Turnover. The Board of Directors, at the election of Declarant, shall obtain a third party loan for payment for these items or payments due Declarant. Any such loan may be acquired prior to Turnover and shall be the Master Association's payment responsibility after Turnover.

Section 11.7 Boundary Modifications. The boundaries of the Common Property may, from time to time, be modified by Declarant as deemed necessary or appropriate by Declarant for development and sale of the Property. Upon the request of Declarant, the Master Association shall, without approval of a Person and without compensation, execute any such instrument deemed necessary to accomplish any boundary modification.

Section 11.8 Implied Rights. The Master Association may exercise any other right or privilege given to it expressly by this Declaration or the Bylaws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

Section 11.9 Restriction on Mortgaging Common Property. Declarant or the Board of Directors prior to the Turnover Date may, without the vote of the Class "A" Members, mortgage some or all of the Common Property. After the Turnover Date, the Board of Directors of the Master Association may not mortgage the Common Property unless approved by a majority of the votes of the Members. Nothing in this Section shall be construed to restrict Declarant's right to transfer Common Property encumbered by a mortgage to the Master Association pursuant to Section 11.1.1 and 11.5.

Section 11.11 No Amendment. The provisions of this Article XI may not be amended without the written consent of Declarant.

ARTICLE XII ASSESSMENTS

Section 12.1 Creation of Assessments. There are hereby created Assessments as may from time to time be authorized by the Board of Directors to be commenced at the time and in the manner set forth in this Article. There shall be five (5) types of Assessments: (a) Common Assessments for Common Expenses; (b) Special Assessments as described in Section 12.3 below; (c) Village Assessments as described in Section 12.4 below; (d) Benefit Assessments as described in Section 12.7 below and (e) Landscape Assessments as described in Section 12.14.

Common Assessments shall be allocated as follows:

Residential One (1) Assessment per Lot subject to Assessment pursuant to this Declaration;

Golf Club Facilities: Ten (10) Residential Assessments.

If portions of the Property are developed and sold for uses other than residential uses, the voting rights, Assessments and use restrictions, if any, attributable to such Property shall be described in a Supplemental Declaration.

In the event any of the Properties subject to this Declaration has not been platted as Lots or otherwise subdivided to the number of Lots anticipated for eventual sale, such unplatted or unsubdivided portions of the Properties shall be deemed to have the number of Lots set forth on the Site Plan until such Properties are platted, replatted, or otherwise subdivided.

All Assessments, together with interest at a rate not to exceed the highest rate allowed by applicable usury law as computed from the due date when the delinquency first occurs, late charges (in an amount determined by the Board computed from the due date), costs and reasonable attorney's fees, shall be a charge on the Lot (and improvements) or other property to which they pertain and shall be a lien upon such property against which each Assessment is made. Such lien to be effective as of the date of the original recording of this Declaration. Each such Assessment, together with interest, late charges, costs and reasonable attorney's fees, shall also be the personal obligation of the Person who owned such Lot at the time the Assessment arose, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable to the time of conveyance, except as otherwise provided in this Article.

The Master Association shall, upon the written request of any Owner, furnish, within ten (10) days after such written request, to any Owner liable for any type of Assessment a certificate in writing signed by an officer of the Master Association setting forth whether such Assessment has been paid as to his/her particular Lot. With respect to all Persons other than the Owner of that Lot, such certificate, in the absence of fraud or misrepresentation, may be relied upon as conclusive evidence of payment to the Master Association of such Assessment therein stated to have been paid. The Master Association may require the advance payment of a processing fee not to exceed three months' Common Assessment on one Lot for the issuance of each such certificate.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors and such determination by the Board may include, without limitation, acceleration of that fiscal year's Assessments for delinquencies. Unless the Board otherwise provides, the Common Assessments, Village Assessments and Landscape Assessments shall be paid annually, in advance, unless otherwise determined by the Board or required by law, and Benefit Assessments shall be paid quarterly or monthly as determined by the Board and Special Assessments shall be paid when levied.

No Owner may waive or otherwise exempt himself from liability for Assessments, including, by way of illustration and not limitation, by non-use of Common Areas or abandonment of his property. Assessments will be due and payable during any period of suspension of use of Common Property. The obligation to pay Assessments is a separate and independent covenant on the part of each Owner. The Owner of a Lot, by acceptance of a deed therefore whether or not it shall be expressed in any such deed, shall be deemed to covenant and agree to pay the Assessments, and such obligations shall be binding on all Merchant Builders or developers purchasing Lots for development and/or resale. No diminution or abatement of Assessments or set-off shall be claimed or allowed by reason of any alleged failure of the Master Association or Board to take some action or perform some function required to be taken or performed by the Master Association or Board under this Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Master Association, or from any action taken by Declarant in connection with the development of Magnolia Landing or from any action taken to comply with any law, ordinance or with any order or directive of any municipal or other governmental authority.

Prior to Turnover, Declarant shall not have any obligation to pay Assessments on Lots which it owns, whether such Lots are original inventory or have been reacquired by Declarant. Rather, until that time, Declarant may elect annually to advance to the Master Association the difference between the amount of Assessments assessed (whether collected or not) relative to all Lots subject to and being assessed, all revenues of the Master Association and the amount of actual operating expenditures required to operate the Master Association during the fiscal year (the "difference"); provided, if Turnover occurs prior to the end of a fiscal year, Declarant shall pay the difference assessed for the period prior to Turnover and pay to the Master Association at Turnover an amount equal to the unamortized portion of Assessments collected, together with prorated assessments on Lots owned by Declarant and other prepaid amounts collected for that fiscal year less any cash or cash equivalents of the Master Association on such date. Declarant shall not be obligated to fund Assessments or the difference until needed by the Master Association to fund cash expenditures by the Master Association. Notwithstanding anything to the contrary in this Declaration, Declarant shall have no obligation to fund capital replacement, capital repairs,

capital additions or reserves of any kind. Any capital replacements, capital repairs or additions may be funded through reserves which may be collected, Special Assessments, contributions to capital or, at Declarant's option, advances made by Declarant which shall be refunded to Declarant at Turnover either by cash payment, the loan provided for in Section 11.5(d) above, or after Turnover pursuant to a promissory note given by the Master Association to Declarant on terms and conditions established by Declarant consistent with terms which Declarant believes could be obtained by the Master Association from a financial institution. To the extent determined solely by Declarant, capital additions and replacements may be licensed, leased or purchased. Declarant may, in its sole discretion, also elect to defer all or a portion of the Common Assessment owed by Merchant Builders for Lots sold to Merchant Builders for a period to be determined by Declarant not to exceed the Turnover Date. For purposes of computation of Common Assessments, said Lots shall be considered owned by Declarant until the expiration of said period. Declarant's election to fund the difference shall be by written notice to the Board not less than thirty (30) days prior to the beginning of each fiscal year and if no notice is delivered by Declarant, Declarant shall be deemed to have elected to pay the difference. Declarant's financial obligations to the Master Association may be satisfied in the form of a cash subsidy or by "in kind" contributions of services or materials, or a combination of these. Prior to Turnover, Assessments levied together with the revenues which exceed actual expenditures shall be paid to Declarant to repay advances made by Declarant, including repayment of any difference previously funded by Declarant. After Turnover, Declarant shall be obligated to pay Assessments in the same manner as any other Owner.

Section 12.2 Purpose of Assessments. The Assessments levied by the Master Association shall be used for proper maintenance, replacement, repair and management of the Areas of Common Responsibility and, in particular, for operation of the Master Association and fulfilling its obligations under the Declaration and all documents and agreements executed in connection herewith.

Section 12.3 Computation of Common Assessments. It shall be the duty of the Board annually to prepare a budget covering the estimated Common Expenses of the Master Association during the coming year. Revenues from the operation of the Club Facilities shall be estimated as part of the budget. In addition to the Common Expense budgets which shall be the basis for operation and management of the Common Property, the Board of Directors shall, prior to Turnover, annually attempt to determine the Common Expenses which would be incurred upon completion of Magnolia Landing, including, without limitation, any anticipated future expansion or addition of Common Property and number of Lots. Prior to the Turnover, this "build-out" budget shall be utilized in determining Common Assessments allocated to Lots by allocating the Common Expenses estimated at build-out among the number of Lots anticipated to be constructed within Magnolia Landing upon build-out. This allocation of Assessments expenses is undertaken in an effort to fairly allocate the Common Expenses anticipated upon completion of Magnolia Landing. As previously provided, Declarant may elect not to pay Assessments on Lots it owns, and in lieu thereof, to pay the difference.

The budgets may, but shall not be required to, include a contribution establishing a reserve budget (as described in Section 9 of this Article). In the event a reserve budget is established, Declarant shall have no obligation to pay any portion of the Assessments which are to be contributed to the reserve contributions whether or not Declarant elects to pay Assessments or fund the difference and the difference shall not include any consideration to such reserve.

Lots which become subject to Assessments during a year shall be assessed on a prorated basis based on the number of days remaining in the year in which such Lots become subject to any Assessments. The Board shall cause a copy of the budgets and notice of the amount of the Common Assessment to be levied against each Lot for the following year to be delivered to each Owner at least fifteen (15) days prior to the beginning of the fiscal year.

In the event the Common Assessments collected do not cover the Common Expenses, the Board of Directors shall levy an additional Common Assessment to cover such deficiency.

Section 12.4 Computation of Village Assessments. It shall be the duty of the Board annually to prepare a separate budget covering the estimated Village Expenses to be incurred by the Master

Association for each Village on whose behalf such expenses are expected to be incurred during the coming year. The Board shall be entitled to set such budget only to the extent that this Declaration, Village Supplement or written agreement with Village Association specifically authorizes the Board to assess certain costs as a Village Assessment, or the Owners of Lots in such Village authorize same by a majority vote. Any Village, through its Members and as evidenced by a petition signed by a majority of the Owners within the Village, may request that additional services, a higher level of services, capital acquisition, or construction be provided by the Master Association, and if the Master Association, in its sole discretion, agrees to provide such higher level of service, any additional costs shall be billed as a Village Assessment. Such budget may, but shall not be required to, include a contribution establishing a reserve fund for repair and replacement of capital items within the Village, as appropriate. Expenses incurred for the benefit of a particular Village shall be allocated equally among all Lots within the Village(s) benefited thereby, provided the Board may adjust Village Assessments for Lots for which no Certificate of Occupancy has been granted by the applicable governmental authority. The Board shall cause a copy of such budget to be delivered to each Owner of a Lot in the benefited Village(s) or provide a written notice that a copy of the budget is available upon request at no charge to the Owner. The copy must be provided to the Owner within ten (10) business days after written request by Owner. Such budget and Assessment shall become effective upon adoption by the Board. In addition to Village Assessments based on the budget of expenses on behalf of a Village, the Board may levy Village Assessments to cover Assessments for unanticipated or unbudgeted expenses benefiting the Village.

In the event the Board fails for any reason so to determine the Common Assessment or Village Assessment budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year; provided, however, that upon the adoption of a new budget, the same shall be deemed retroactive to the beginning of then current budget year and each affected Owner shall pay the increase, if any, in such Assessment from the beginning of the year at the time the next quarterly installment is due.

Section 12.5 Special Assessments. In addition to Common Assessments, the Master Association may levy Special Assessments applicable to that year only, provided any such Assessment which would exceed that year's Common Expenses for such year shall require the approval of a majority of the votes, to be cast by the Members, or written consent of a majority of the Members and, prior to the Turnover Date, the written consent of Declarant. Such Special Assessment shall be for the purpose of defraying, in whole or in part, the cost of any acquisition, construction or reconstruction, capital replacements, capital repairs or any unexpected or unbudgeted expense or repair. Special Assessments shall be allocated in the same manner as Common Assessments. Special Assessments shall only be used for the purpose collected.

Section 12.6 Benefit Assessments. The Board of Directors of the Master Association may impose a Benefit Assessment upon any Owner whose use or treatment of a Lot increases the costs to the Master Association above that which would result from compliance by the Owner with this Declaration or a Supplemental Declaration. The amount of such Assessment shall be equal to such cost increase plus ten percent (10%) and may be enforced in the manner provided for any other Assessment. Any charge for individual services whether provided on a mandatory or optional basis, such as, by way of example and not limitation, cable television service provided pursuant to a bulk rate agreement, amounts owing for irrigation if provided by the Master Association or amounts owing to the Master Association for goods and services provided pursuant to use of the Club Facilities, may be deemed a Benefit Assessment. The Master Association may levy a Benefit Assessment against any Owner individually and against such Owner's Lot to reimburse the Master Association for bringing the Owner's Lot into compliance with the provisions of the Declaration. Fines are considered a Benefit Assessment and may be levied after notice to the Owner and an opportunity for a hearing. Amounts owed to the Master Association for fees, charges and personal services charged at the Club Facilities shall, if not paid in accordance with the account policies established by the Master Association, be considered a Benefit Assessment. The costs of remedial maintenance undertaken by the Master Association to remedy deficient maintenance by a Village Association shall be assessed as a Benefit Assessment equally against all Lots within the Village. Reasons for Benefit Assessments shall also include, but not be limited to, remedial action, costs and legal fees incurred or anticipated to be incurred by the Master Association.

Section 12.7 Lien for Assessments. Upon recording of a notice of lien on any Lot there shall exist a perfected lien for unpaid and future Assessments prior and superior to all liens placed of record after the date of this Declaration, except (1) all taxes, bonds, assessments and other levies which by law would be superior thereto, and (2) the lien or charge of any first mortgage of record made in good faith and for value by an Institutional Lender. During the period a lien is filed against a Lot, the vote associated with that Lot shall be suspended, and the right to use the Club Facilities shall be suspended, unless such lien is being disputed in legal proceedings.

The lien of the Master Association, when delinquent, may be enforced by suit, judgment and foreclosure with fifteen (15) days' notice.

The Master Association, acting on behalf of its Owners, shall have the power to bid for the Lot at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. During the period in which a Lot is owned by the Master Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no Assessments shall be levied on it; and (c) each other Lot shall be charged, in addition to its usual Assessment, its equal pro rata share of the Assessment that would have been charged against the Lot now owned by the Master Association, had it not been acquired by the Master Association as a result of foreclosure. Suit to recover a money judgment for unpaid Assessments, costs and attorney's fees shall be maintainable without foreclosing or waiving the lien securing the same.

Section 12.8 Reserve Budget and Reserve Contribution. The Board of Directors may, but shall not be required to, annually prepare a reserve budget. Prior to Turnover, reserves will only be budgeted if the same are consented to by Declarant. If a reserve budget is established, the Board shall set the required reserve contribution. The reserve contribution required shall be fixed by the Board and included within and distributed with the budget and Common Assessment, as provided in Section 3 of this Article. The reserve budget may, if funded, be used by the Board of Directors to fund capital replacements, capital additions and capital repairs.

IF RESERVES ARE ESTABLISHED, DECLARANT SHALL BE UNDER NO OBLIGATION TO FUND OR PAY RESERVE CONTRIBUTIONS FOR LOTS WHICH IT OR A MERCHANT BUILDER OWNS.

NOTHING IN THIS SECTION OR THIS DECLARATION SHALL REQUIRE THE MASTER ASSOCIATION TO COLLECT OR ASSESS FOR CAPITAL RESERVES. IF RESERVES ARE COLLECTED, NO REPRESENTATION IS MADE THAT THE AMOUNTS COLLECTED WILL BE SUFFICIENT FOR ANY OR ALL CAPITAL REPLACEMENTS OR REPAIRS OR THAT ANY RESERVE BALANCE WILL BE AVAILABLE TO THE MASTER ASSOCIATION AT TURNOVER, AND IT IS LIKELY THAT SPECIAL ASSESSMENTS MAY BE NECESSARY.

To the extent the Master Association makes any claim against Declarant or its appointed directors for Common Property conditions or any other condition existing at Turnover or prior acts or omissions by Declarant or Declarant's appointed Board of Directors, the contributions remaining at Turnover (if any), together with amounts then in the capital reserve account (if any) and amounts owed to Declarant shall be credited against any obligation of Declarant or its appointed Board.

Section 12.9 Date of Commencement of Assessments. Except as specifically provided herein to the contrary, the obligation to pay the Assessments provided for herein shall commence as to each Lot on the date this Declaration is recorded. If Declarant elects to pay the difference between the expenses of the Master Association and Assessments collected from Owners (other than Declarant), Lots owned by Declarant shall not be assessed. The first year's Assessment levied on any Lot shall be adjusted according to the number of days remaining in the fiscal year at the time Assessments commence on the Lot.

Section 12.10 Subordination of the Lien to First Mortgage. An Institutional Mortgagee holding a first mortgage of record who acquires title to a Lot by foreclosure of a mortgage or a deed given in lieu of

foreclosure, shall not be liable for Assessments attributable to the Lot or chargeable to the former owner of the Lot which came due prior to the mortgagee's acquisition of title, unless the payment of past due amounts has been secured by a lien recorded by the Master Association prior to the recording of the first mortgage. The foregoing shall not relieve the Owner from personal liability for amounts owed the Master Association. Any unpaid share of Assessments not due from the Institutional Mortgagee becomes an expense collectable from all Owners (other than Declarant) including the Institutional Mortgagee and its successors and assigns. No owner or acquirer of title by a Lot by foreclosure or by deed in lieu of foreclosure, whether or not the parcel is occupied, may be excused from payment of any Assessment coming due in a period of such ownership.

Section 12.11 Duties of the Board of Directors. The Board of Directors of the Master Association shall prepare a roster of Owners and Villages (as applicable) or other property, and Assessments applicable thereto, which shall be kept in the office of the Master Association and shall be open to inspection by any Owner; provided, only the Board, an Owner or his First Mortgagee may look at the status of Assessments on the Owner's Lot (unless otherwise required by law).

Section 12.12 Contribution Upon Initial Retail Sale and Subsequential Resale. Upon every record transfer of record title to a Lot after the date of recording of this Declaration, a contribution shall be made by or on behalf of the purchaser to the Master Association. Upon the initial transfer of a Lot by Declarant, the contribution shall be an amount equal to twelve (12) months Common Assessment. Where any Lot is sold by Declarant to a Merchant Builder, Declarant may, at its option, waive the initial payment for that Lot until resale by the Merchant Builder, at which time such amount will be due from the Purchaser from the Merchant Builder. The initial contribution upon the sale of each Lot by Declarant or a Merchant Builder shall, notwithstanding anything to the contrary in this Declaration, be collected by the Master Association and be paid to Declarant to reimburse Declarant for costs and expenses incurred by Declarant to construct the Common Area. Said amount shall be payable by the Master Association to Declarant even if such amount exceeds costs and expenses actually incurred by Declarant, and said payment shall be deemed a contractual obligation of the Master Association and not a dividend of distribution of assets of the Master Association. The contribution paid upon resale of a Lot by an Owner (other than the initial contribution paid upon the sale of a Lot by Declarant or a Merchant Builder) shall be six (6) months Common Assessment applicable to a Lot for that year, plus Five Hundred and No/100 Dollars (\$500.00) service fee, and shall be used for operating expenses. Prior to Turnover, the Master Association will not estimate resale contributions for purposes of determining the budget. Such resale contribution shall be utilized solely to reduce the difference (if applicable) payable by Declarant, if received prior to Turnover. Declarant, its parent, subsidiaries, affiliates and assigns, shall be exempt from payment of the contribution required by this Section. The contribution required by this Section shall constitute an Assessment against the Lot and shall be subject to the same lien rights and other rights of collection applicable to other Assessments under this Article. No representation or warranty is made by Declarant or the Master Association that, on the date of Turnover, any funds will be turned over to the Master Association from such contributions. Upon transfer

Section 12.13 Exempt Property. Notwithstanding anything to the contrary herein, the following property shall be exempt from payment of Assessments:

12.13.1 all Common Area; and

12.13.2 all property dedicated to and accepted by any governmental authority (including, without limitation, CDD) or public utility.

12.14 Landscape Assessments Each Lot for which the Master Association performs maintenance of landscaping as provided in Section 6.3 hereof shall be charged a Landscape Assessment. The Landscape Assessment shall be assessed at the actual cost per Lot charged the Master Association for landscape maintenance by a third party provider or if not separately billed by the third party provider, the Board of Directors shall make, at its discretion an allocation of landscape maintenance costs among the Lots subject to the Landscape Assessment.

ARTICLE XIII ARCHITECTURAL STANDARDS

All property which is now or may hereafter be subjected to this Declaration is subject to architectural and site plan review. This review shall be in accordance with this Article and such standards as may be promulgated by the ARC. The Board of Directors shall have the authority and standing, on behalf of the Master Association, to enforce in courts of competent jurisdiction decisions of the ARC. Until the retail closing of the sale of the last Home to be built in Magnolia Landing, Declarant also shall have the authority to enforce decisions of the ARC concurrently with the Master Association. The Board of Directors shall have the right to lien Lots for actionable violations of this Declaration, design and development guidelines promulgated by the ARC and decisions of the ARC. Said lien shall include, but not be limited to, remedial action taken by the Master Association, costs and prevailing party legal fees incurred by the Master Association in prosecuting its claim. This Article may not be amended without Declarant's written consent in its sole and absolute discretion so long as Declarant owns any land subject to this Declaration or subject to unilateral annexation by Declarant under this Declaration.

No construction, which term shall include within its definition clearing, excavation, grading and other site work, no exterior alteration or modification of existing improvements, and no plantings or removal of plants, trees or shrubs shall take place except in compliance with this Article, until the requirements below have been fully met, and until the written approval of the ARC. The ARC shall have the absolute and exclusive right to refuse to approve such construction, exterior alteration or modification, or planting or removal of plants, trees and shrubs, which the ARC determines is not suitable or desirable in its opinion for any reason, which is not arbitrary or capricious. The ARC may establish reasonable fees to be charged for review of an application for approval hereunder, which fees, if established, shall be paid in full prior to review of any application hereunder. Notwithstanding the foregoing, Declarant, in its discretion, may establish preliminary procedures for architectural review whereby an Owner or an Owner's agent may meet with the ARC for the purpose of exhibiting to such body preliminary concepts or drawings for the contemplated construction and in order to assist such Owner or Owner's agent in formulating a design which will comport with the architectural standards of the ARC. Such discussions shall not be binding on the ARC.

All Homes and other improvements constructed on or made by Owners, Merchant Builders and Persons other than Declarant, to any portion of the Properties shall be designed by and built in accordance with the plans and specifications submitted to the ARC.

Section 13.1 ARC. Except as may otherwise be provided herein, the ARC shall have exclusive jurisdiction over all construction on any portion of the Properties. Until all of the Property has been developed and conveyed to purchasers (other than Merchant Builders) in the normal course of development and sale, Declarant retains the right to appoint all members of the ARC, which shall consist of at least three (3), but no more than five (5) persons, none of whom shall be required to be Owners and who shall serve terms subject to the sole discretion of Declarant. There shall be no surrender of Declarant's right to appoint all members of the ARC prior to that time except in a written instrument, in recordable form, executed by Declarant. Until Declarant relinquishes the right to appoint members of the ARC, the authority of the ARC shall arise from Declarant and not the Master Association, and such members shall have no fiduciary responsibility to the Association or its Members. Upon the expiration of Declarant's right to appoint the members of the ARC, the members of the ARC shall thereafter be appointed by the Board of Directors.

The ARC shall prepare and promulgate design and development guidelines and application and review procedures. Copies shall be available from ARC for review by Owners, Merchant Builders and building contractors who seek to engage in development of or construction upon all or any portion of the Properties, and such parties shall conduct their operations in accordance therewith. ARC shall have sole and full authority to prepare and to amend the guidelines and procedures. In the event that the ARC fails to approve or disapprove plans submitted to it, or to request additional information it may require, within forty-five (45) days after submission thereof, the plans shall be deemed approved.

Section 13.2 No Waiver of Future Approvals. The approval of the ARC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the ARC, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matter whatever subsequently or additionally submitted for approval or consent.

Section 13.3 Variance. The ARC may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship or aesthetic or environmental considerations require, but only in accordance with duly adopted rules, regulations, or documentation of the circumstances. Such variances may only be granted, however, when unique circumstances dictate, and no variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) estop the ARC from denying a variance in other circumstances. For purposes of this Section, the inability to obtain the issuance of any permit or the terms of any financing shall not necessarily be considered a hardship warranting a variance.

The approval by the ARC does not constitute governmental approval. It is the sole responsibility of the Lot Owner to obtain the necessary permits and meet all governmental requirements. No approval as provided herein shall be deemed to represent or imply that the proposed improvement, if constructed in accordance with the approved plans and specifications, will result in properly designed and constructed improvements or will meet all applicable building codes, or other governmental requirements, or will be able to obtain applicable governmental permits.

Section 13.4 Compliance. Any contractor, subcontractor, agent, employee or other invitee of an Owner or Merchant Builder who fails to comply with the terms and provisions of the guidelines and procedures promulgated by the ARC may, to the extent permitted by law, be excluded from working within the Properties by the Master Association without liability to any Person. Prior to exclusion of any contractor or subcontractor for violations of guidelines and procedures promulgated by the ARC, the contractor or subcontractor shall have the right to notice and an informal hearing conducted by the Board of Directors.

Section 13.5 Right to Inspect. Subject to reasonable advance notice for occupied Homes, there is specifically reserved unto the ARC the right of entry and inspection of any Home for the purpose of determination by the ARC whether there exists any constriction or any improvements which violate the terms of any approval by the ARC or the terms of this Declaration or of any other covenants, conditions and restrictions to which a deed or other instrument of conveyance or Plat makes reference. The ARC is specifically empowered to enforce the provisions of this Declaration by any legal or equitable remedy, and in the event it becomes necessary to resort to litigation to determine the propriety of any constructed improvement, or to remove any unapproved improvements, the prevailing party shall be entitled to recovery of all court costs, expenses and reasonable attorney's fees in connection therewith and the same shall be assessable and collectible in the same manner as any Benefit Assessment provided for herein. The Master Association shall indemnify and hold harmless each member of the ARC from all costs, expenses and liabilities, including attorney's fees, incurred by virtue of any service by a member of the ARC.

Section 13.6 Exemption. Notwithstanding anything to the contrary contained herein, improvements and construction activities of Declarant shall be exempt from the provisions of this Article XIII. Furthermore, improvements and construction activities of the CDD in the performance of its responsibilities purchase to Section 190.012, Florida Statutes, shall be exempt from the provisions of this Article XIII.

Section 13.7 ARC Liability. Neither the ARC, the Master Association, nor Declarant nor any of their representatives shall be liable to anyone submitting plans for approval or to any Owner or occupant of the Property by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval of any plans or the failure to approve any plans. Any Owner making or causing to be made any proposed improvement or additions on any portion of the Property or Home agrees and shall be deemed to have agreed, for such Owner, and his heirs, personal

representatives, successors and assigns, to hold the ARC, the Master Association, Declarant and all other Owners harmless from any liability, damage to the Property and from expenses or damages arising from the construction and installation of any proposed improvement and such Owner shall be solely responsible for the maintenance, repair and insurance of any improvement, alteration, modification or change and for assuring that the proposed improvement meets with all applicable governmental approvals, rules and regulations.

Section 13.8 Limitation of Liability. No approval by the ARC shall constitute an opinion of the ARC that the improvements comply with this Declaration, the design guidelines, governmental requirements nor shall the same give rise to any liability for design, construction materials, construction methods, structural integrity, fire/safety requirements, and adequacy of budgets or legal effect. The ARC shall not be liable for mistakes and may require an Owner to correct deficiencies arising as a result of any ARC approval.

ARTICLE XIV USE RESTRICTIONS

Lots shall be used only for residential and related purposes. Other portions of the Property shall be used for recreational facilities and other purposes as may be permitted by the applicable governmental approvals and ordinances. Any Supplemental Declaration or additional covenants imposed on the property within any Village by Village Documents may impose stricter standards than those contained in this Article. The Master Association, acting through its Board of Directors, shall have standing and the power to enforce standards imposed by Village Documents.

Declarant, prior to Turnover, and the Master Association, acting through its Board of Directors, both prior to and after Turnover, shall have the authority to make and to enforce reasonable Rules and Regulations governing the use of the Properties, in addition to those contained herein. The use restrictions set forth in this Article shall be binding until and unless overruled, cancelled or modified in a regular or special meeting of the Master Association by the vote of the Members representing at least sixty-seven percent (67%) of the total votes in the Master Association and by Declarant prior to the conveyance of the last Lot by Declarant and Merchant Builders. Any such modifications or cancellation shall be recorded in the Public Records as an amendment to this Declaration.

Use restrictions shall be binding upon all Owners and occupants of Lots. These use restrictions shall not apply to the Golf Club Facilities. Notwithstanding anything to the contrary herein, Declarant shall be exempt from application of the provisions of this Article so long as it owns any portion of the Property.

Section 14.1 Occupants Bound. All provisions of the Declaration, Bylaws and of any Rules and Regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants, guests, invitees and lessees of any Owner. Every Owner shall cause his or her occupants to comply with the Declaration, Bylaws and the Rules and Regulations adopted pursuant thereto, and shall be responsible for all violations and losses to the Properties caused by such occupants, guests, invitees and lessees, notwithstanding the fact the such occupants are fully liable and may be sanctioned for any violation of the Declaration, Bylaws and Rules and Regulations adopted pursuant thereto.

Section 14.2 Parking and Vehicular Restrictions. Parking in the Properties shall be restricted to four-wheel automobiles and passenger-type vans, jeeps, and sport utility vehicles, as determined by the Board of Directors from time to time, and only within the parking areas therein designed and/or designated for such purpose. This restriction is designed to prohibit parking of "commercial vehicles" (as defined below) on a Lot, unless fully enclosed in a closed garage. No Owner shall conduct repairs (except in an emergency) or restorations of any motor vehicle, or other vehicle upon any portion of the Properties, except in an enclosed area with the doors thereto closed at all times. No vehicle shall be left covered in a driveway for a period exceeding one (1) day.

No commercial vehicles, campers, mobile homes, motor homes, house trailers or trailers of every other description, recreational vehicles, boats, boat trailers, house trailer or vans (other than passenger vans) shall be permitted to be parked or to be stored at any place within the Properties, except in spaces for some or all of the above specifically designated by Declarant or the Master Association, if any, and in fully enclosed garages. Garages must comply with design standards set by the ARC and approved garages sufficient to accommodate boats, trailers, campers, recreational and other oversized vehicles and oversized items is not guaranteed. No Owner shall keep any vehicle on the Common Areas which is deemed a nuisance by the Board. For purposes of this Section, "commercial vehicles" shall mean those which are not designed and used for customary, personal/family purposes, and those vehicles which contain commercial lettering. The absence of commercial-type lettering or graphics on a vehicle shall not be dispositive as to whether it is a commercial vehicle. The determination of the Board of Directors as to the commercial nature of a vehicle shall be binding on an Owner. The prohibitions on parking contained above in this Section shall not apply to temporary parking of commercial vehicles such as for construction use or providing pick-up and delivery and other commercial services nor to any vehicles of Declarant. No parking on lawns shall be permitted. On-street parking is prohibited, except for service or construction vehicles temporarily parked to provide service to a Lot or other portion of the Property. On-street parking for special events may be permitted pursuant to this Declaration or the Rules and Regulations.

Subject to applicable laws and ordinances, any vehicle parked in violation of these or other restrictions contained herein or in the Rules and Regulations may be towed by the Master Association at the sole expense of the owner of such vehicle if such vehicle remains in violation for a period of twenty-four (24) hours from the time a notice of violation is placed on the vehicle or if such vehicle was cited for such violation within the preceding three (3) day period. The Master Association shall not be liable to the owner of such vehicle for trespass, conversion or otherwise, nor guilty of any criminal act, by reason or such towing, and once the notice is posted, neither its removal nor failure of the owner to receive it for any other reason shall be grounds for relief of any kind. For purposes of this paragraph, "vehicle" shall also mean campers, mobile homes, trailers, etc. By acquisition of title to a Lot, the Owner provides to the Master Association the irrevocable right to tow vehicles parked on the Owner's Lot and any other portion of the Properties which are in violation of this Declaration. An affidavit of the person posting the aforesaid notice stating that it was properly posted shall be conclusive evidence of proper posting.

Section 14.3 Animals and Pets. No animals, wildlife, livestock, reptiles or poultry of any kind shall be raised, bred or kept on any portion of the Properties, except that dogs, cats or other usual and common household pets may be permitted in reasonable number determined by the Board of Directors in its discretion, provided they are not permitted to roam the Property. The Board of Directors may promulgate rules and regulations dictating the permitted number of pets by residence size and/or type. It is an Owner's responsibility to check with the Master Association concerning the number of pets permitted within the Owner's residence. All pets shall be controlled by their Owner at all times and shall be leashed when not on the Owner's Lot and within an enclosed area. Those pets which, in the sole discretion of the Board of Directors, endanger the health, make objectionable noise or constitute a nuisance or inconvenience to the Owners of other Lots or the owner of any portion of the Properties, shall be removed upon request of the Board within three (3) days of written request; provided, if the Board determines an animal is a safety hazard, the Owner shall immediately remove the animal from the Property. No pets shall be kept, bred or maintained on any Lots for commercial purposes. Household pets shall at all times whenever they are outdoors be confined on a leash no greater than fifteen (15) feet in length or carried by a responsible person. All persons bringing a pet onto property of others shall be responsible for removing any solid waste of the pet.

Section 14.4 Nuisances. No portion of the Properties shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing or material be kept upon any portion of the Properties that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort or serenity of the occupants of surrounding property. No noxious, illegal or offensive activity shall be carried on upon any portion of the Properties, nor shall anything be done thereon which would be a reasonable cause of embarrassment, discomfort, annoyance or nuisance to any person using any portion of the Properties. There shall not be maintained any plants or

animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, and unpleasant or of a nature as may diminish or destroy the enjoyment of the Properties. Except for Declarant's development activities, no outside burning of wood, leaves, trash, garbage or household refuse shall be permitted within the Properties.

Section 14.5 Hazardous Materials. Hazardous materials shall only be stored on the Property if reasonably necessary to the maintenance of such Property or operation of any permitted business within the Properties. All hazardous materials shall be stored, utilized and accounted for in accordance with all governmental requirements.

Section 14.6 Trash. No rubbish, trash, garbage or other waste material shall be kept or permitted on the Properties except in containers located in appropriate areas, if any, and in all events such containers shall not be visible from any of the Properties except for the minimum time reasonably necessary for collection. Trash shall be placed curbside no earlier than dusk the day prior to collection and empty receptacles shall be removed from curbside by dusk on the day of collection. Trash receptacles shall be kept within enclosed garages or on the side of a Lot screened from view from rights-of-way, Common Areas and adjacent Lots. Said restriction shall not apply to construction sites. No odor shall be permitted to arise therefrom so as to render the Properties or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. Subject to applicable law, no clothing or household fabrics shall be hung, dried or aired in a manner which is visible from the Common Area or other Lots. No lumber, grass, shrub or tree clippings or plant waste, metals, bulk material or scrap or refuse or trash shall be kept, stored or allowed to accumulate on any portion of the Properties, except within an enclosed structure appropriately screened from view erected for that purpose, if any.

Section 14.7 Unsightly or Unkempt Conditions. It shall be the responsibility of each Owner of a Lot to prevent the development of any unclean, unhealthy, unsightly or unkempt condition on his or her Lot.

Section 14.8 Outside Installations. No exterior antennas, aerials, satellite dishes or other apparatus for the reception or transmission of television, radio or other signals of any kind shall be placed, allowed or maintained upon the exterior of any Lot or Common Area, except in compliance with any standards imposed by the ARC and subject to compliance with the Rules and Regulations. As provided under applicable federal law, certain antennae, aerials, satellite dishes and other reception apparatus may be installed prior to architectural approval by the ARC, provided the Master Association may, to the extent permitted by law, require any such improvements to be relocated, screened or painted for safety or to maintain the aesthetic appearance of the Property. Owners are encouraged to contact the ARC prior to locating or installing satellite dishes and aerials. Declarant and/or the Master Association shall have the right, without obligation, to erect an aerial, satellite dish or other apparatus for a master antenna or cable system for the benefit of all or a portion of the Properties, should any such master system or systems be utilized and require any such exterior apparatus.

Section 14.9 Subdivision of Lot and Time Sharing. No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the Board of Directors of the Master Association. The Board may permit a division in ownership of any Lot intended for a single-family detached residence as shown on a Plat, but solely for the purpose of increasing the size of the adjacent Lots. Except as may otherwise be provided by Supplemental Declaration, in the event of a division in ownership of any Lot, the Owners among whom the ownership is divided shall be treated as co-Owners of the divided Lot for purposes of voting and shall be jointly and severally liable for all Assessments against the Lot hereunder. Declarant hereby expressly reserves the right to replat any Lot or Lots owned by Declarant. Any such division, boundary line change or replatting shall not be in violation of the applicable subdivision and zoning regulations.

No Lot shall be made subject to any type of timeshare program, interval ownership, vacation club or similar program whereby the right to exclusive use of the Lot rotates among multiple owners or members of the program on a fixed or floating time schedule over a period of years. This Section shall

not prohibit ownership of a Lot intended for residential use by joint tenants or tenants-in-common nor shall it prohibit ownership by an Owner who is not a natural person. Notwithstanding anything to the contrary, Declarant shall specifically be exempt from any timeshare or interval ownership development restrictions imposed by this Declaration.

MULTIPLE OWNERS OF LOTS MAY BE REQUIRED TO DESIGNATE ONE (1) INDIVIDUAL OR FAMILY (AS DEFINED IN THE RULES AND REGULATIONS) WHO WILL HAVE ACCESS TO AND USE OF THE CLUB FACILITIES. ACCESS BY MULTIPLE OWNERS MAY, FROM TIME TO TIME, BE LIMITED OR RESTRICTED BY THE RULES AND REGULATIONS.

Section 14.10 Firearms. The discharge of firearms and use of slingshots and other weapons within the Properties is prohibited. The term "firearms" includes "B-B" guns, pellet guns and other firearms of all types, regardless of size. Notwithstanding anything to the contrary contained herein or in the Bylaws, the Master Association shall not be obligated to take any action to enforce this Section.

Section 14.11 Irrigation. No sprinkler or irrigation systems of any type which draws upon water from creeks, streams, rivers, lakes, ponds, wetlands, canals or other ground or surface waters within the Properties shall be installed, constructed or operated within the Properties by any Person, other than Declarant, the Master Association or the CDD. Irrigation wells for Lots are prohibited.

Section 14.12 Tents, Trailers and Temporary Structures. Except as may be permitted by the Board of Directors for special events or construction activities, no tent, utility shed, shack, trailer, outbuilding, basement or other structure of a temporary nature shall be placed upon any Lot.

Section 14.13 Insurance Rates. Nothing shall be done or kept in the Common Area which will increase the rate of insurance on any Property insured by the Master Association without the approval of the Board, nor shall anything be done or kept on any Lot or the Common Areas which would result in the cancellation of insurance on any Property insured by the Master Association or which would be in violation of any law, ordinance or governmental or administrative rule.

Section 14.14 Sight Distance at Intersections. All Property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem, as the same is determined by the Board of Directors. Restrictions imposed by the Board of Directors shall not relieve an Owner from additionally complying with any governmental ordinance or rule applicable to safe sight distance.

Section 14.15 Utility Lines. No overhead utility lines, including, without limitation, lines for electric (except for overhead power lines which may exist as of the date of this Declaration and any replacement thereof), telephone and cable television, shall be permitted within the Properties, except for temporary lines as required during construction.

Section 14.16 Wetlands, Lakes and Water Bodies. All lakes, ponds and streams within the Properties, if any, shall be designated as aesthetic amenities only; no swimming, boating, playing, fishing or use of personal flotation devices shall be permitted, unless otherwise determined by the party(ies) owning and maintaining the water bodies. This Section shall not restrict the use of bodies of water in connection with golf course play sanctioned by this Declaration. Furthermore, one or more areas within the Properties may be designated as a conservation or preservation tract or buffer area or may otherwise be subjected to a conservation easement for the purposes of protection of wetlands, protected and endangered species and valuable habitat. The Master Association and CDD shall not be responsible for any loss, damage, or injury to any Person or property arising out of the authorized or unauthorized use of lakes, ponds, or streams within the Properties.

Section 14.17 Recreational Facilities. Each Owner agrees to indemnify, defend and hold harmless the Master Association, Declarant, and their partners, shareholders, directors, officers, employees and agents, for any claims, demands, losses, costs, fees and expenses related to, or in any

way pertaining to, use of any recreational facilities furnished by Declarant, or the Master Association to the Owner, his family members, guests, lessees and invitees.

Section 14.18 Maintenance Easement. Every Lot is burdened with an easement permitting the Master Association to utilize portions of Lots abutting the Common Areas to maintain portions of the Common Areas, provided such easement shall be exercised in a manner which does not unreasonably interfere with use or enjoyment of the Lot for its primary purpose and that such use by the Master Association will, to the extent possible, minimize damage to the landscaping and other improvements on the Lot which are not prohibited by this Declaration.

Section 14.19 Business Use. No trade or business may be conducted in or from any Lot, except that an Owner or occupant residing in a Lot may conduct business activities within the Lot so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Lot; (b) the business activity conforms to all governmental requirements; (c) the business activity does not involve persons coming onto the residential properties who do not reside in the Properties or door-to-door solicitation of residents of the Properties; and (d) the business activity is consistent with the residential character of the Lot and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

The terms "business" and "trade" as used in this provision shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor. Notwithstanding the above, the leasing of a Lot shall not be considered a trade or business within the meaning of this Section.

Section 14.20 Leasing of Lots.

14.20.1 Definition. "Leasing," for purposes of this Declaration, is defined as regular, exclusive occupancy of a Lot by any person or persons other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity or emolument.

14.20.2 Leasing Provisions.

14.20.2.1 General. Lots may be rented only in their entirety; no fraction or portion may be rented. There shall be no subleasing of Lots or assignment of leases unless prior written approval is obtained from the Board of Directors. All leases shall be in writing except with the prior written consent of the Board of Directors. The minimum lease term for any Lot within the Properties shall be thirty (30) days. No more than three (3) leases may be entered into for any Lot during a calendar year. The minimum lease term and number of times a Lot may be leased during a calendar year may be made more restrictive by Village Supplement or Village Documents.

Section 14.21 Wells and Drainage. No private water system shall be constructed on any Lot. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Person other than Declarant may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers or storm drains. Declarant hereby reserves for itself a perpetual easement across the Properties for the purpose of altering drainage and water flow, provided the same shall not unreasonably interfere with an Owner's use of the Property.

Section 14.22 Air Conditioning Units. No window or wall air conditioning units may be installed on any Lot. All air conditioning units shall be screened from view of Common Property and adjacent Lots.

Section 14.23 Septic Tanks. Septic tanks are not permitted on any portion of the Property, except for sales centers, models or construction offices and shall be subject to requirements imposed by law and Declarant.

Section 14.24 Golf Cart Paths. No persons shall be permitted to jog, walk, bike, roller skate or roller blade along the golf cart paths or any other portion of the golf course, unless the prior written approval by owner of the Golf Club Facilities has been obtained.

Section 14.25 Golf Club Facilities Nuisance. No person shall, at any time the golf course is open for play, engage in any activity whatsoever which shall interfere with the players' performance during use of the golf course. Further, no obnoxious, unpleasant, unsightly or offensive activity shall be carried on which shall interfere with the players' use of the golf course.

Section 14.26 On-Site Fuel Storage. No on-site storage of gasoline or other fuels shall be permitted on any Lot except that up to five (5) gallons of fuel may be stored on each Lot for emergency purposes and operation of lawn mowers and similar tools or equipment. Notwithstanding this provision, underground fuel tanks for storage of heating fuel for dwellings, pools, gas grills and similar equipment may be permitted on a Lot if approved in accordance with Article XIII. This restriction is designed to reduce environmental risks associated with fuel storage and to minimize the hazards associated with on-site fuel storage.

Section 14.27 Approval by ARC. The following use restrictions are restrictions that permit or prohibit certain conduct or uses and require certain permitted uses to be approved by the ARC in accordance with Article XIII. The following restrictions are illustrative only and shall in no event be deemed a comprehensive list of items subject to approval in accordance with Article XIII.

14.27.1 Landscaping. Installation and removal of landscaping shall be subject to the prior approval of the ARC. No trees or other landscaping shall be removed except for diseased or dead trees or other landscaping, and trees and landscaping needing to be removed to promote the growth of other landscaping or for safety reasons, and such removal may be conditioned upon replacement of removed trees and landscaping.

14.27.2 Signs. No sign, billboard or advertisement of any kind, including, without limitation, those of realtors, contractors, subcontractors and for sale or for lease signs, shall be erected or displayed within the Properties without the written consent of the ARC or the Board of Directors, except as may be required by legal proceedings or applicable law, and except signs, regardless of size, used by Declarant, its successor and assigns, and replacement of such signs (similar or otherwise). The ARC will promulgate standards for signs, including size, color, lettering, height, material, location and number of signs permitted on Lots. Under no circumstances shall signs, flags, banners or similar items advertising or providing directional information with respect to activities being conducted outside the Properties be permitted within the Properties. No sign shall be nailed or otherwise attached to trees. The Board of Directors or Declarant shall have the right to erect signs as they, in their discretion, deem appropriate.

14.27.3 Driveways, Walkways, Lights and Mailboxes. All driveways, sidewalks, post lights and mailboxes shall be maintained in the style and color originally established or approved in accordance with Article XIII.

14.27.4 Pools. No above-ground pools shall be erected, constructed or installed on any Lot except that above-ground pools which are integrated within the construction of a building or decking around the building and above-ground spas or jacuzzis, may be permitted if approved in accordance with Article XIII.

14.27.5 Lighting. Except for seasonal Christmas or holiday decorative lights, which may be displayed between Thanksgiving and January 10th only, all exterior lights must be approved in accordance with Article XIII or expressly permitted by law.

14.27.6 Artificial Vegetation, Exterior Sculptures and Similar Items. All artificial vegetation, exterior sculpture, fountains, banners, flags, flagpoles and similar items must be approved in accordance with Article XIII; provided, however, that nothing herein shall prohibit the appropriate display of the American flag, provided the ARC may adopt size restrictions applicable to banners and flags and related flag poles.

14.27.7 Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed on any Lot unless it is an integral and harmonious part of the architectural design of a structure, and is approved in accordance with Article XIII.

14.27.8 Fences. No dog runs, animal pens or fences of any kind shall be permitted on any Lot except as approved in accordance with Article XIII.

14.27.9 Play Equipment, Etc. All bicycles, tricycles, scooters, skateboards and other play equipment, wading pools, baby strollers and similar items shall be stored so as not to be visible from streets or property adjacent to a Lot. No such items shall be allowed to remain on the Common Area or on Lots so as to be visible from adjacent property when not in use. All swing sets, basketball hoops and backboards and similar sporting or playground equipment may be erected or placed on Lots subject to the approvals required in Article XIII and subject to limitations contained in the design guidelines as established by the ARC.

14.27.10 Window Coverings. All windows on any structure which are visible from the street or dwellings on other Lots shall have window coverings which have a white or off-white backing or blend with the exterior color of the dwelling. Reflective window coverings are prohibited. No awnings, canopies or shutters shall be permanently installed on the exterior of any building unless first approved in accordance with Article XIII. Temporary storm shutters are permitted but should not be installed more than forty-eight (48) hours before hurricane warnings for Lee County are issued. The temporary storm shutters shall be removed either: (1) within three (3) calendar days after hurricane warnings for Lee County are lifted; or (2) if damage is incurred, the latter of: (a) fifteen (15) days after a hurricane hits the Property; or (b) immediately after hurricane damage repairs have been made to the structure. Permanent storm shutters are permitted only when incorporated into the design of the Home and approved by the ARC.

14.27.11 Pool Enclosures. Screened pool enclosures shall comply with the design guidelines and standards set by the ARC. Screen enclosures shall be integrated within the principal structure and shall be subject to design and approval of appearance (color, style, etc.) by the ARC, which may be different by Village.

Section 14.28 Children's Use of Common Areas. Persons who are not sixteen (16) years of age or older shall not be permitted to use the Club Facilities unless under the supervision of an adult Owner or lawful occupant over the age of eighteen (18) years, except in such cases and under such conditions as the Board may from time to time establish and require. Parents shall be responsible for all actions of their minor children at all times in and about Magnolia Landing.

Section 14.29 Completion and Sale of Homes. No Person shall interfere with the completion and sale of Homes within Magnolia Landing. WITHOUT LIMITING THE FOREGOING, EACH OWNER, BY ACCEPTANCE OF A DEED, AGREES THAT PICKETING AND POSTING OF SIGNS DEEMED BY THE MASTER ASSOCIATION'S BOARD OF DIRECTOERS OR DECLARANT TO BE DETRIMENTAL TO THE DEVELOPMENT AND SALE OF THE PROPERTY IS STRICTLY PROHIBITED.

ARTICLE XV CENTRAL CABLE, TELECOMMUNICATION SERVICES AND ELECTRONIC MONITORING SYSTEMS

Section 15.1 Ownership and Use. Declarant reserves and retains to itself, its successors and assigns:

(A) The title to any central cable and distribution system and any telecommunication services, including, but not limited to, telephone and toll call services, Declarant installs or causes to be installed within Properties, together with a perpetual easement for the placement and location thereof, including without limitation, conduits, wires, amplifiers, towers, antennae and related apparatus and equipment; and

(B) A perpetual easement for ingress and egress to service, maintain, install, repair and replace the aforesaid apparatus and equipment; and

(C) The right to connect the central cable, internet and intranet to such distribution and receiving sources as Declarant may in its sole discretion deem appropriate; and

(D) EACH OWNER'S ASSESSMENTS MAY, AT DECLARANT'S OPTION, INCLUDE A SPECIFIED MONTHLY CHARGE TO EACH LOT FOR THE FEES CHARGED TO MASTER ASSOCIATION FOR CABLE TELEVISION OR OTHER BULK SERVICES, (WHICH MIGHT INCLUDE BUT NOT BE LIMITED TO INTERNET, TELEPHONE AND MONITORING) PURSUANT TO ANY BULK AGREEMENT WITH THE MASTER ASSOCIATION, WHETHER OR NOT ANY OWNER ELECTS TO, USE SUCH SERVICES. The Master Association will have agreements with one or more third party providers, copies of which will be available for inspection upon request. The Master Association recognizes that such agreements benefit the Properties and the Owners and that beneficial terms and conditions were obtained through the execution of such agreements, and that notwithstanding any future statutory provisions under Florida law allowing cancellation of such an agreement, that the Master Association will not unreasonably cancel such agreements.

(E) Any fees paid by the third party provider in connection with the agreement to provide service to the Properties shall be retained by Declarant. Each Owner and the Master Association waive any claim to such fees.

ARTICLE XVI IRRIGATION SYSTEM

Section 16.1 Installation. Declarant or the CDD shall have the right, but not the obligation, to install and operate an underground irrigation distribution system which will provide landscape irrigation to all Lots, CDD property, Common Area and Village Association common areas. If the system is installed, Declarant or the CDD shall be responsible for installation and maintenance of the underground irrigation distribution system to the boundary of each Lot. Notwithstanding anything in this Article concerning rights or obligations of Declarant or the CDD, and whether or not Declarant or the CDD installs an irrigation water distribution system, each Owner shall be required to install and maintain an underground sprinkler system on a Lot, which shall be installed as part of the original construction of the Home. Irrigation systems shall be installed and maintained in accordance with the design and development guidelines and the Community Wide Standards. Village Associations may maintain the underground sprinkler system on a Lot as part of its landscape maintenance to Lots. Declarant or the CDD may, at any time, in the future terminate irrigation maintenance or irrigation service without liability to any Owner.

Section 16.2 Maintenance of Irrigation System. A blanket easement is granted to Declarant or the CDD over the Properties, excepting those portions of the Property on which a permanent structure exists or for which construction is planned, for the purpose of ingress and egress and designing, studying, mapping, engineering, constructing, maintaining, operating and servicing any irrigation system installed by or on behalf of Declarant or the CDD.

Section 16.3 Irrigation Service. If Declarant or the CDD provides irrigation service to Lots and Village common areas, such Lots and Village Association's common area shall be obligated to use such service, and Declarant or the CDD, in its sole discretion, shall develop an irrigation schedule for Lots and shall be the only parties to determine the timing and frequency of irrigation. For irrigation service provided

to Lots and Village common areas by Declarant or the CDD, Declarant or the CDD may allocate the costs of irrigation as part of its operation and maintenance assessment or may charge each Owner a flat fee or a metered charge per 1,000 gallons. Charges levied by Declarant or the CDD shall be calculated by Declarant or the CDD to cover all operations, maintenance and capital costs of construction, repair and replacement of the irrigation system, together with a capital charge for costs advanced by Declarant or the CDD to fund such system, and if the Declarant provides such service a reasonable profit as determined in the sole discretion of Declarant. Neither Declarant and the CDD shall be liable to the Owner for any interruption in irrigation service, the quality of irrigation water, the source of irrigation water or any damage to the landscaping or sod on a Lot or Village common area caused by providing or not providing irrigation service. The Owner shall indemnify, defend and hold harmless Declarant and the CDD and their supervisors, officers, employees and agents against and in respect of, and reimburse the same on demand for any and all claims, demands, losses, costs, expenses, settlement, obligations, liabilities, damages, recourse and deficiencies including, but not limited to, interest, penalties, attorneys' fees and disbursements (even if incident to appeal) that Declarant or the CDD, their supervisors, officers, employees and agents incur or suffer which arise, result from or relate to any claim made by any party based on the installation, operation and maintenance of the irrigation system and the provision of irrigation service to the Lot, including without limitation property damage, personal injury or claims for inconvenience.

Section 16.4 Source of Water. All Owners and Village Associations acknowledge that irrigation water provided by Declarant or the CDD, if any, will not be potable water, but may be surface water from lakes which may be recharged from underground wells or may be reclaimed water which may be stored in lakes, the rights to which may be retained by Declarant, and Declarant may impose a fee for use of the water within the lakes. The Declarant shall have the express right to use water from lakes and wells for irrigation. Both the CDD and Declarant agree to maintain permits applicable to wells and use of surface water.

ARTICLE XVII GENERAL PROVISIONS

Section 17.1 Term. The covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and shall be enforceable by the Master Association or the Owner of any Properties subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years each, unless an instrument in writing, signed by sixty seven percent (67%) of then Owners, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated as specified therein. Notwithstanding the foregoing, any terms, provisions, covenants, restrictions or prohibitions contained herein which relate to, pertain to or affect any environmentally sensitive areas of the Properties or any portion of the Properties which is subject to the rules, ordinances or regulations of the Federal Government, the State of Florida or Lee County, or any agency or body of the foregoing shall be applicable to the Properties in perpetuity unless the waiver of same shall have been obtained from the appropriate party or unless the rule, ordinance or regulation shall have been abrogated or repealed by the appropriate party. In the event of a permanent dissolution of the Master Association, title to Common Property will be conveyed to a not-for-profit corporation or other organization or entity assuring continued maintenance and upkeep.

Section 17.2 Amendment. Until the Turnover, Declarant may unilaterally amend this Declaration. Prior to Turnover, the Members may not amend this Declaration. After Turnover this Declaration may be amended by the Board of Directors and the affirmative vote of the Members representing sixty-seven percent (67%) of the total votes in the Master Association. Amendments shall be recorded in the Public Records and shall be effective as of the date of recording.

If a Member consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Member has the authority so to consent and no contrary provision in any mortgage or contract between an Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of Declarant or the CDD without the written consent of Declarant or the CDD, as the case may be, or the assignee of such right or privilege.

Notwithstanding anything to the contrary set forth in this Section 17.2, no amendment shall be effective without the written joinder and consent of Declarant (so long as Declarant owns one or more Lots within the Properties) to the amendment.

Section 17.3 Indemnification. The Master Association shall, to the broadest extent possible by applicable statute, indemnify and hold harmless every officer, director and committee member against any and all expenses, including counsel and paralegal fees, reasonably incurred by or imposed upon such officer, director or committee member in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director or committee member. The officers, directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Master Association (except to the extent that such officers or directors may also be Members of the Master Association), and the Master Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director or committee member, or former officer, director or committee member may be entitled. The Master Association shall, as a common expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Section 17.4 Easements for Utilities, Etc. There is hereby reserved unto Declarant, the Master Association, and the designees of each, easements upon, over, across, and under all of the Properties for ingress and egress; dispensing maintenance chemicals and other proper purposes; provided, the exercise of this easement shall not unreasonably interfere with structures or other improvements on Lots or otherwise unreasonably interfere with the Owner's use of a Lot. Except in an emergency, entry into any Lot shall be made only after reasonable notice to the Owner or occupant thereof. Ingress and egress easements shall exist for police, fire, emergency medical personnel, mail, utility providers and similar governmental services.

Without limiting the generality of the foregoing, there are hereby reserved for the local water, electric and gas supplier easements across all Lots for ingress, egress, installation, reading, replacing, repairing, and maintaining meter boxes. Utility Easements shall be dedicated or granted by Plat or separate instrument and shall be for the installation, maintenance and replacement of utility distribution or collection lines, lift stations, junction and control boxes and other equipment utilized in connection with the distribution and collection of utilities, which lines, lift stations, control boxes and equipment shall be the maintenance responsibility of the utility provider. All utilities easements, whether designated by Plat or separate conveyance, whether in streets, rights-of-way or utility easements, shall be for installation of and maintenance of below grade improvements; provided, however, that water and sewer treatment facilities and control panels for utilities may be installed and maintained above ground. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines or other utilities may be installed or relocated on the Properties, except as may be approved by the Master Association's Board of Directors, after the conveyance of the last Lot by Declarant and Merchant Builders, or as provided by Declarant, prior to Turnover.

Should any entity furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, the Board of Directors shall have the right, without

the approval of any other person, to grant such easement over the Common Areas and Lots without conflicting with the terms hereof. The easements provided for in this Article shall in no way adversely affect any other recorded easement on the Properties.

Declarant hereby reserves the right and the power, during a period of thirty (30) years from the date of the recordation of this Declaration to declare, grant and record additional easements for drainage facilities, sanitary sewer lines, potable and irrigation water lines, storm sewers, gas and electric lines, communication lines, cable television lines and such other service facilities as Declarant may deem necessary, along through, in over and under a strip of land up to ten (10) feet in width from all side, front and rear lines of any Lot and along, through, in, over and under Common Areas, Exclusive Common Areas and the common areas or elements of any Village Association. Provided, said easements and the rights granted shall not be inconsistent with construction of improvements up to the limits of applicable setbacks and then existing improvements on the applicable portions of the Lots, Common Areas, Exclusive Common Areas and the Common Areas or elements of any Village Association. Each Lot is subject to a permanent easement in favor of adjoining or adjacent Lots for lateral and subjacent support. Each Owner and Village Association shall execute any and all documents deemed necessary by Declarant to accomplish the foregoing.

Section 17.5 Severability. Invalidity of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 17.6 Right of Entry. The Master Association shall have the right, but not the obligation, to enter into any Lot for emergency and safety reasons, to abate nuisances (including, without limitation, false burglar alarms) and to inspect for the purpose of ensuring compliance with this Declaration. Except in an emergency situation, entry shall only be during reasonable hours and after reasonable notice to the Owner. This right of entry shall include, but not be limited to, the right of the Master Association to enter a Lot to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after request by the Board.

Section 17.7 Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Master Association, nor shall any legal services be provided with respect to preparing for such judicial or administrative proceedings unless approved by a vote of at least seventy-five percent (75%) of the Members and collection of seventy-five percent (75%) Special Assessment as hereinafter provided. The Master Association shall prepare a budget of the total estimated cost of the litigation which shall be submitted to the Members for a vote along with the notice of the proposed litigation. The budget shall be based upon an estimate of the total cost and fees of the litigation made by the attorney being retained by the Master Association for the litigation. The Master Association shall assess all Owners (other than Declarant and Merchant Builders) by Special Assessment for the total estimated costs and fees of the proposed litigation and no funds from Common Assessments or other sources may be used for such purpose. The Special Assessment must be more than seventy-five percent (75%) collected prior to preparation for and institution of legal proceedings. Both the proposed commencement of litigation and the budget and assessment for the litigation must be approved by a vote of the Members representing seventy-five (75%) percent of the total votes of the Master Association. This Section shall not apply, however, to (a) actions brought by the Master Association against Class "A" Members, (b) the imposition and collection of Assessments as provided herein, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Master Association in proceedings instituted against it. This Section shall not be amended unless such amendment is made by Declarant or is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

Section 17.8 Cumulative Effect; Conflict. The covenants, restrictions, and provisions of this Declaration shall be cumulative with those of any Village Association and the Master Association may, but shall not be required to, enforce the latter; provided, however, in the event of conflict between or among such covenants and restrictions, and provisions of any articles of incorporation, Bylaws, rules and regulations, policies, or practices adopted or carried out pursuant thereto, those of any Village Association

shall be subject and subordinate to those of the Master Association. The foregoing priorities shall apply, but not be limited to, the liens for Assessments created in favor of the Master Association.

Section 17.9 Use of the Term "Magnolia Landing." No Person shall use the term "Magnolia Landing" or any derivative thereof or logo used in any printed or promotional material without the prior written consent of Declarant. However, Owners may use the term "Magnolia Landing" in printed or promotional matter where such term is used solely to specify that particular property is located within "Magnolia Landing" and the Master Association shall be entitled to use the word "Magnolia Landing" in its name, its Website, its newsletter, and in its operation of the Club Facilities. Declarant reserves the right for a service mark for "Magnolia Landing".

Section 17.10 Compliance. Every Owner and occupant of any Lot, their guests and invitees, shall comply with all lawful provisions of this Declaration, the Bylaws and Rules and Regulations of the Master Association. Failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Master Association or, in a proper case, by any aggrieved Property.

Section 17.11 Independent Builders. The Properties are a master planned mixed use community being developed by Declarant. The individual buildings constructed within the Properties may be constructed by Declarant, Merchant Builders or others who are independent contractors who purchase unimproved Lots from Declarant. If a building is constructed by a person or entity other than Declarant, Declarant shall have no liability whatsoever for such builder's activities, whether direct or indirect, including, without limitation, marketing or construction of the building or actions of any principal, officer, trustee, partner, agent or subcontractor.

Section 17.12 Notice of Transfer of Lot. In the event that any Owner (Other than Declarant) desires to sell or otherwise transfer title of his or her Lot, (by sale, gift or judicial decree) such Owner shall give the Board of Directors at least seven (7) days prior written notice of the name and address of the purchaser or transferee, the date on which such transfer of title is to take place, and such other information as the Board of Directors may reasonably require. Until such written notice is received by the Board of Directors and the contribution required by Section 12.13 hereof is paid in full, the transferor shall remain jointly and severally liable with the transferee for all obligations of the Owner of the Lot, including payment of all Assessments, notwithstanding the transfer of title to the Lot.

Section 17.13 Documents to Grantees. All Lot Owners shall be obligated to deliver the Master Association Documents originally received from their predecessor in title containing this Declaration, Supplements and all other declarations and documents, to any grantee of such Owners. Copies of Master Association Documents may be acquired from the Master Association upon payment of a reasonable reproduction fee.

Section 17.14 Recognition by Owners of Declarant's Rights to Develop and Construct Improvements on the Properties. Each Owner on his, her or its own behalf and on behalf of such Owner's heirs, personal representatives, successors, mortgagees, lienors and assigns acknowledges and agrees that the completion of the development of Magnolia Landing may occur over an extended period of time and that incident to such development and the construction associated therewith the quiet use and enjoyment of the Properties and each portion thereof may be temporarily interfered with by the development and construction work occurring on those portions of the Properties owned by Declarant or its successors and assigns and each Owner, on behalf of such Owner's heirs, assigns, personal representatives, successors, mortgagees, lienors and assigns does hereby waive all claims for interference with such quiet enjoyment and use as a result of the development and construction on the balance of the Properties. Each Owner on behalf of such Owner's heirs, personal representatives, successors, mortgagees, lienors and assigns agrees that the development, construction and completion on the balance of the Properties may interfere with such Owner's original and existing views, light and air and diminish the same and each such Owner or such Owner's behalf and on behalf of such Owner's heirs, assigns, personal representatives, successors, mortgagees, lienors and assigns does hereby release

Declarant and its successors in interest and others involved from all claims that they may have in connection therewith.

Section 17.15 Pronouns. In this Declaration, the use of any gender shall be deemed to include all genders and use of the singular shall include the plural, wherever appropriate to further the intention of this Declaration.

Section 17.16 Security. Declarant, the CDD and the Master Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties more secure than they otherwise might be. NEITHER MASTER ASSOCIATION, CDD NOR DECLARANT, SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTIES, NEITHER MASTER ASSOCIATION, CDD NOR DECLARANT, SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS AND OCCUPANTS OF ANY LOT, TENANTS, GUESTS AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT MASTER ASSOCIATION, ITS BOARD OF DIRECTORS AND DECLARANT DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION SYSTEM, ELECTRONIC MONITORING SYSTEM OR OTHER SECURITY SYSTEM DESIGNATED BY OR INSTALLED ACCORDING TO GUIDELINES ESTABLISHED BY DECLARANT OR THE ARCHITECTURAL REVIEW COMMITTEE MAY NOT BE COMPROMISED OR CIRCUMVENTED, THAT ANY FIRE PROTECTION OR ELECTRONIC MONITORING SYSTEMS OR OTHER SECURITY SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP, OR OTHERWISE, NOT THAT FIRE PROTECTION OR ELECTRONIC MONITORING SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER AND OCCUPANT OF ANY LOT, AND EACH TENANT, GUEST AND INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT MASTER ASSOCIATION, ITS BOARD OF DIRECTORS AND COMMITTEES, AND DECLARANT ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT OF ANY LOT AND EACH TENANT, GUEST AND INVITEE OF ANY OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO HOMES AND TO THE CONTENTS OF HOMES AND FURTHER ACKNOWLEDGES THAT MASTER ASSOCIATION, ITS BOARD OF DIRECTORS AND COMMITTEES, AND DECLARANT, HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, OCCUPANT, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR ELECTRONIC MONITORING SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTIES.

Section 17.17 Disclaimer of the Master Association Liability. AS USED IN THIS ARTICLE, **"ASSOCIATIONS"** SHALL MEAN MASTER ASSOCIATION, ALL VILLAGE ASSOCIATIONS HAVING JURISDICTION OVER PORTIONS OF MAGNOLIA LANDING, AND ALL COMMITTEE AND BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES), SUBCONTRACTORS, SUCCESSORS AND ASSIGNS OF ANY OF THE FOREGOING.

NOTWITHSTANDING ANYTHING CONTAINED HEREIN OR IN THE ARTICLES OF INCORPORATION, BYLAWS, ANY RULES OR REGULATIONS OF THE ASSOCIATIONS OR ANY OTHER DOCUMENT GOVERNING OR BINDING MASTER ASSOCIATION (COLLECTIVELY, THE **"ASSOCIATION DOCUMENTS"**), THE ASSOCIATIONS SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, MEMBER, OCCUPANT OR USER OF ANY PORTION OF MAGNOLIA LANDING, OR THEIR GUESTS, INVITEES, AGENTS, SERVANTS, CONTRACTORS OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

(a) IT IS THE EXPRESS INTENT OF THE ASSOCIATION DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH ARE ENFORCEABLE BY THE ASSOCIATIONS AND

WHICH GOVERN OR REGULATE THE USES OF MAGNOLIA LANDING, HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF MAGNOLIA LANDING AND THE VALUE THEREOF; AND

(b) THE ASSOCIATIONS ARE NOT EMPOWERED, AND HAVE NOT BEEN CREATED, TO ACT AS AN AGENCY WHICH ENFORCES OR INSURES COMPLIANCE WITH THE LAWS OF THE STATE OF FLORIDA OR LEE COUNTY OR THE PREVENTION OF TORTIOUS ACTIVITIES.

EACH MEMBER (BY VIRTUE OF HIS OR HER ACQUISITION OF A LOT) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING ANY USE OF, ANY PORTION OF MAGNOLIA LANDING (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USE) SHALL BE BOUND BY THIS ARTICLE AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST WHICH THE LIABILITY OF THE ASSOCIATIONS HAS BEEN DISCLAIMED IN THIS ARTICLE. EACH MEMBER DOES HEREBY RELEASE DECLARANT AND THE ASSOCIATIONS FROM ALL LIABILITY FROM INJURY AND/OR ACCIDENTAL DEATH DUE TO ADVERSE WEATHER AND ALL EFFECTS AND RESULTS THEREOF.

Section 17.18 Enforcement. The Master Association and each Village Association and each Owner shall have the right to enforce compliance of the terms of this Declaration including but not limited to maintenance responsibilities for infrastructure supporting the Property.

Section 17.19 Non-Condominium/Non-Cooperative. The Master Association created pursuant to this Declaration and the Articles of Incorporation of the Master Association does not and is not intended to constitute a condominium association or a cooperative association. The Properties are not intended to be condominium property, or cooperative property under applicable law except as otherwise specifically provided in a declaration of condominium or cooperative. This Declaration is not part of the common elements of any condominium or cooperative unless subjected to a declaration of condominium or cooperative encumbering any such property.

Section 17.20 Severability. Invalidity of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 17.21 Waiver of Jury Trial. In the event there is a dispute concerning the rights, obligations or remedies of an Owner or Declarant under this Declaration, such matter will be submitted to a court of competent jurisdiction. DECLARANT AND ALL OWNERS HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT THEY MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY DISPUTE CONCERNING THE RIGHTS, OBLIGATIONS OR REMEDIES OF DECLARANT OR ANY OWNER UNDER THIS DECLARATION OR ANY LITIGATION (INCLUDING BUT NOT LIMITED TO ANY COUNTERCLAIMS, CROSS CLAIMS OR THIRD PARTY CLAIMS) BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS DECLARATION, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY. DECLARANT HEREBY CERTIFIES THAT NEITHER ANY REPRESENTATIVE NOR AGENT OF DECLARANT NOR DECLARANT'S COUNSEL HAS REPRESENTED, EXPRESSLY OR IMPLICITLY, THAT DECLARANT WOULD NOT, IN THE EVENT OF SUCH LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER.

Section 17.22 Exculpation. Declarant, the Master Association, Village Associations, the directors and officers of Village Associations, or any person acting on behalf of any of them, shall not be liable for any costs or damages incurred by any Owner or any other party whatsoever, due to any mistakes in judgment, negligence or any action of Declarant, the Master Association or Village Associations in connection with the approval or disapproval of plans and specifications. Each Owner agrees, individually and on behalf of its heirs, successors and assigns by acquiring title to a Home, that it shall not bring any action or suit against Declarant, the Master Association, Village Associations or their respective agents, directors or officers, in order to recover any damages caused by the actions of Declarant, the Master

Association, Village Associations or their respective members, officers or directors in connection with the provisions of this Section. Village Associations do hereby indemnify, defend and hold Declarant, its members, officers and directors harmless from all costs, expenses and liabilities, including legal fees, of all nature resulting by virtue of the acts of the Owners or Village Associations. Declarant, Village Associations, and their respective directors or officers, or any person acting on behalf of any of them, shall be responsible for any defects in any plans or specifications or the failure of the same to comply with applicable laws or code nor for any defects in any improvements constructed pursuant thereto. Each party submitting plans and specifications for approval shall be solely responsible for the sufficiency thereof and for the quality of construction performed pursuant thereto.

Section 17.23 Right to Enforce. Declarant has the right, but not the obligation, to enforce the provisions of this Declaration and the Community Wide Standards and to recover all costs relating thereto, including legal fees. Such right shall include the right to perform the obligations of the Master Association, Villages Associations and Owner, and to recover all costs incurred in doing so.

Section 17.24 Release. AS A FURTHER MATERIAL INDUCEMENT FOR DECLARANT TO SUBJECT MAGNOLIA LANDING TO THIS DECLARATION, EACH OWNER DOES HEREBY RELEASE, WAIVE, DISCHARGE, COVENANT NOT TO SUE, ACQUIT, SATISFY AND FOREVER DISCHARGE DECLARANT, ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS AND ITS AFFILIATES AND ASSIGNS FROM ANY AND ALL LIABILITY, CLAIMS, COUNTERCLAIMS, DEFENSES, ACTIONS, CAUSES OF ACTION, SUITS, CONTROVERSIES, AGREEMENTS, PROMISES AND DEMANDS WHATSOEVER IN LAW OR IN EQUITY WHICH AN OWNER MAY HAVE IN THE FUTURE, OR HEREFTER CAN, SHALL OR MAY HAVE AGAINST DECLARANT, ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, AND ITS AFFILIATES AND ASSIGNS, FOR, UPON OR BY REASON OF ANY MATTER, CAUSE OR THING WHATSOEVER RESPECTING THIS DECLARATION, OR THE EXHIBITS HERETO. THIS RELEASE AND WAIVER IS INTENDED TO BE AS BROAD AND INCLUSIVE AS PERMITTED BY THE LAWS OF THE STATE OF FLORIDA.

Section 17.25 Refund of Taxes and Other Charges. Unless otherwise provided herein, the Master Association and Village Associations agree that any taxes, fees or other charges paid by Declarant (whether paid as part of the difference or directly by Declarant) to any governmental authority, utility company or any other entity which at a later date are refunded in whole or in part, shall be returned to Declarant in the event such refund is received by the Master Association or any Village Association.

ARTICLE XVIII MORTGAGEE/PROVISIONS

The following provisions are for the benefit of First Mortgagees holding mortgages on Lots. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

Section 18.1 Notice to Mortgagee. A First Mortgagee who provides written request to the Master Association (such request to state the name and address of such holder, insurer, or guarantor and the Lot number), will be entitled to timely written notice of:

18.1.1 any condemnation loss or any casualty loss which affects a material portion of the Properties;

18.1.2 any delinquency in the payment of Assessments or charges owed by an Owner of a Lot, subject to the mortgage of such First Mortgagee, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any First Mortgagee, upon request, is entitled to written notice from the Master Association of any default in the performance by such Owner of any obligation under the Declaration or Bylaws of the Master Association which is not cured within sixty (60) days; or

18.1.3 any lapse, cancellation, or material modification of any insurance policy maintained by the Master Association.

18.1.14 any proposed action which would require the consent of a specified percentage of eligible holders.

Section 18.2 Taxes. Declarant and First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an the Master Association policy, and Declarant and First Mortgagees making such payments shall be entitled to immediate reimbursement from the Master Association.

Section 18.3 No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the First Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

Section 18.4 Notice to the Master Association. Upon request, each Owner shall be obligated to furnish to the Master Association the name and address of the holder of any mortgage encumbering such Owner's Lot.

Section 18.5 Applicability of this Article. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws, or Florida law for any of the acts set out in this Article.

Section 18.6 Failure of Mortgagee to Respond. Any Institutional Lender who received a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Master Association does not receive a written response from the Institutional Lender within thirty (30) days of the date of the Master Association's request.

Section 18.7 Management Agreement Limitations. Notwithstanding anything contained herein which might otherwise be construed to the contrary, any agreement entered into prior to the Turnover Date for professional management of the Master Association or any other agreement providing for services by Declarant to the Master Association, may not extend beyond one (1) year after the Turnover.

Section 18.8 Special FHLMC Provision. So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing provisions of this Declaration. Unless at least sixty-seven percent (67%) of the first Mortgagees or at least sixty-seven percent (67%) of the votes eligible to be cast by the Member consent, the Master Association shall not:

(a) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Property which the Master Association owns, directly or indirectly (the granting of easements as hereinbefore provided shall not be deemed a transfer within the meaning of this subsection);

(b) change the method of determining the obligations, Assessments, or other charges which may be levied against an Owner of a Lot (a decision, including contracts, by the Board or provisions of any declaration subsequently recorded on any portion of the Properties regarding Annual the Master Association Assessments or Assessments for such property shall not be subject to this provision where such decision or subsequent declaration is otherwise authorized by this Declaration);

(c) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Lots and of the Common Property (the issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this Provision);

(d) fail to maintain insurance or fidelity bonds, as required by this Declaration; or

(e) use hazard insurance proceeds for any Common Property losses for other than the repair, replacement, or reconstruction of such Common Property in accordance with this Declaration.

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

Section 18.9 Amendment by Board. Should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the revision of this Article or make any such requirements less stringent, the Board, without approval of the Members, may cause an amendment to this Article to be recorded to reflect such changes.

ARTICLE XIX DECLARANT'S RIGHTS

Section 19.1 Declarant. Declarant, the Merchant Builder and the successors or assigns of Declarant will undertake the work of constructing buildings, dwellings and improvements related thereto. The completion of that work and the sale, rental and other disposal of Lots is essential to the establishment and welfare of Magnolia Landing as a community. As used in this Section and its subparagraphs, the words "its successor or assigns" specifically do not include purchasers of completed Lots unless specifically designated in the instrument as the successor of Declarant rights in and to this Section or the Declaration. In order that said work may be completed and Magnolia Landing established as a fully occupied community as rapidly as possible, no Owner, Master Association, or Village Association shall do anything to interfere with Declarant's activities. Without limiting the generality of the foregoing, nothing in this Declaration or the Articles or Bylaws shall be understood or construed to:

19.1.1 Prevent Declarant, its successors or assigns, or its or their contractors or subcontractors, from doing on any Property owned by them whatever they determine to be necessary or advisable in connection with the completion of said work, including without limitation, the alteration of its construction plans and designs as Declarant deems advisable in the course of development (all models or sketches showing plans for future development of the Properties may be modified by Declarant at any time and from time to time, without notice); or

19.1.2 Prevent Declarant, its successors or assigns or its or their contractors, subcontractors or representatives from erecting, constructing and maintaining on any property owned or controlled by Declarant, or its successors or assigns or its or their contractors or subcontractors, such structures as may be reasonably necessary for the conduct of its or their business of completing said work and establishing Magnolia Landing as a community and disposing of the same by sale, lease or otherwise; or

19.1.3 Prevent Declarant, its successors or assigns or its or their contractors or subcontractors, from conducting on any property owned or controlled by Declarant or its successors or assigns, its or their business of developing, subdividing, grading and constructing improvements on the Properties and of disposing of Lots therein by sale, lease or otherwise; or

19.1.4 Prevent Declarant, its successors or assigns, from determining in its sole discretion the nature of any type of improvements to be constructed as part of Magnolia Landing.

In addition to the rights reserved elsewhere herein, Declarant reserves an easement for Merchant Builders (as provided in any written assignment from Declarant), itself or its nominees over, upon, across and under Magnolia Landing as may be required in connection with the development of Magnolia Landing,

and other lands designated by Declarant and to promote or otherwise facilitate the development, construction and sale and/or leasing of Homes, any portion of Magnolia Landing and other lands designated by Declarant. Without limiting the foregoing, Declarant specifically reserves the right to use all paved roads and rights-of-way within Magnolia Landing for vehicular and pedestrian ingress and egress to and from construction sites and for the construction and maintenance of any central cable, telecommunication services and electronic monitoring system provided by Declarant. Specifically, each Owner acknowledges that construction vehicles and trucks may use portions of the Common Areas. Declarant shall have no liability or obligation to repave, restore or repair any portion of the Common Areas as a result of the use of the same by construction traffic, and all maintenance and repair of such Common Areas shall be deemed ordinary maintenance of the Master Association or applicable Village Association, as appropriate. Without limiting the foregoing, at no time shall Declarant or any Merchant Builder be obligated to pay any amount to the Master Association or Village Association on account of Declarant's or Merchant Builder's use of the Common Areas for construction purposes. Declarant intends to use the Common Areas for sales of new and used Homes. Further, Declarant may market other residences and commercial properties located outside of Magnolia Landing from Declarant's sales facilities located within Magnolia Landing. Declarant has the right to use all portions of the Common Areas in connection with its marketing activities, including, without limitation, allowing members of the general public to inspect model Homes, installing signs and displays, holding promotional parties and picnics, and using the Common Areas for every other type of promotional or sales activity that may be employed in the marketing of new and used residential Homes or the leasing of residential apartments. The easements created by this Section and the rights reserved herein in favor of Declarant shall be construed as broadly as possible and supplement the rights of Declarant set forth in this Section. At no time shall Declarant incur any expense whatsoever in connection with its use and enjoyment of such rights and easements. Without limiting any other provision of this Declaration, Declarant may non-exclusively assigns its rights under this Declaration to each Merchant Builder.

Any or all of the special rights and obligations of Declarant may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is in a written instrument signed by Declarant and duly recorded in the Public Records.

Declarant expressly reserves the right to grant easements and rights-of-way over, under and through the Common Areas so long as Declarant owns any portion of the Property primarily for development and/or resale; provided, no such easement shall adversely interfere in a material manner with the use of the Common Area by the Members.

Notwithstanding any provisions contained in the Declaration to the contrary, so long as construction and initial sale of Lots shall continue, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the Common Areas and Lots owned by Declarant such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of Lots, including, but not limited to, business offices, signs, model lots, and sales offices, and Declarant shall have an easement for access to such facilities. The right to maintain and carry on such facilities and activities shall include specifically the right to use any Lot owned by Declarant and any clubhouse or activity center which may be owned by the Master Association, as models, or information or sales offices.

So long as Declarant continues to have rights under this Article, no Person shall record any declaration of covenants, conditions and restrictions, or similar instrument affecting any portion of the Properties without Declarant's review and written consent thereto, and any attempted recordation without compliance herewith shall result in such declaration of covenants, conditions and restrictions, or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by Declarant.

Section 19.2 Future Easements and Modifications. Declarant reserves the right to grant, modify or enter into easements, dedications, agreements, licenses, restrictions, reservations, covenants and rights of way to modify the boundary lines and to plat or replat portions of the Property for

development of Magnolia Landing. The Master Association, any Village Association, each Owner and Merchant Builder agree to execute and deliver any and all agreements, documents, plats and instruments which are necessary or desirable to accomplish the same.

Section 19.3 Honorary Memberships. The Master Association shall issue ten (10) honorary memberships to use the Common Property, the Club Facilities and the roadways within the Properties reasonably necessary to obtain access to and use of the Club Facilities to persons designated by Declarant from time to time. Honorary members, their families and guests shall have the same rights to use the Club Facilities as Class "A" Members except that honorary members shall have no voting rights. Honorary members shall not be required to pay any membership contribution, initiation fee, or Assessments to the Master Association. Honorary members shall pay the same user charges and fees as paid by Class "A" Members. Honorary memberships shall be surrendered to Declarant for designation of a new beneficial user upon the earlier of: (a) the death or resignation of both the honorary member and his or her spouse, or (b) receipt of written notice from Declarant. Declarant's ability to designate honorary members shall survive the Turnover Date.

Section 19.4 Site Plan. Declarant reserves the right to modify the Site Plan at any time it deems desirable in its sole discretion and in accordance with applicable laws and ordinances. WITHOUT LIMITING THE FOREGOING, DECLARANT AND/OR MERCHANT BUILDERS MAY PRESENT TO THE PUBLIC OR TO OWNERS RENDERINGS, PLANS, MODELS, GRAPHICS, TOPOGRAPHICAL TABLES, SALES BROCHURES OR OTHER PAPERS RESPECTING MAGNOLIA LANDING. SUCH RENDERINGS, PLANS, MODELS, GRAPHICS, TOPOGRAPHICAL TABLES, SALES BROCHURES OR OTHER PAPERS ARE NOT A GUARANTEE OF HOW MAGNOLIA LANDING WILL APPEAR UPON COMPLETION AND DECLARANT RESERVES THE RIGHT TO CHANGE ANY AND ALL OF THE FOREGOING AT ANY TIME DECLARANT DEEMS NECESSARY IN ITS SOLE AND ABSOLUTE DISCRETION.

Section 19.5 Amendment. This Article may not be amended without the express written consent of Declarant; provided, however, the rights contained in this Article shall terminate upon the earlier of (a) thirty (30) years from the date this Declaration is recorded, or (b) upon recording by Declarant of a written statement that all sales activity has ceased.

ARTICLE XX VILLAGES

Section 20.1 General. Every Lot may be located within a Village. The Lots within a particular Village may be subject to additional covenants and/or the Home Owners may all be members of a Village Association in addition to the Master Association. Any Village, which does not have a Village Association, shall elect a Village Committee at a Village meeting as described in the Bylaws. At the time provided in the Bylaws, the Board of Directors must coordinate a Village meeting. Prior to the formation of a Village Committee, Declarant shall perform the functions of the Village Committee.

Section 20.2 Request for Services. Each Village, upon the written consent of Declarant (so long as Declarant owns one (1) or more Homes within the Properties) and Owners (including Declarant, representing a majority of the Lots) within the Village, which such latter consent shall be delivered to the Master Association and shall contain the signatures of such majority, may request that the Master Association provide a higher level of service or special services for the benefit of Homes in such Village, the cost of which shall be assessed against the benefited Homes as a Village Assessment. The Master Association, may, but shall not be required to, provide such higher level of service.

Section 20.3 Division of Villages. Declarant shall designate Villages by Supplemental Declaration. Village Assessments shall be authorized by Supplemental Declaration. Any Village may be expanded by amendment to a Supplemental Declaration authorized solely by Declarant.

Section 20.4 Master Association Approval of Village Association Documents and Ability to Enforce Rules. In order to ensure compliance with the community-wide maintenance standards

promulgated by the Master Association from time to time, the Master Association shall have the following rights and powers with respect to each Village Association:

20.4.1 Approval of Village Association Documents. The Master Association shall have the right to approve all Village Association documents and all amendments thereto. Each Village Association shall submit all proposed Village Association documents and amendments thereto to the Master Association for review and approval prior to recordation thereof.

20.4.2 Enforcement of Village Association Documents. The Master Association shall have the power, but not the obligation, to enforce all rules and regulations promulgated by any Village Association, together with the terms and provisions of any Village Association documents.

20.4.3 Other Powers of the Master Association with Respect to Villages. The Master Association shall have the power to veto any action taken or contemplated to be taken by an Village Association which the Board reasonably determines to be adverse to the interests of the Master Association or its Members or inconsistent with the Community-Wide Standards. The Master Association shall also have the power to require specific action to be taken by any Village Association in connection with its obligations and responsibilities hereunder or under any other covenants affecting the Properties. Without limiting the generality of the foregoing, the Master Association may require specific maintenance or repairs or aesthetic changes to be effectuated by Village Association, may require that a proposed budget include certain items and that expenditures be made therefor, and may veto or cancel any contract providing for maintenance, repair, or replacement of the property governed by such Village Association.

Any action required by the Master Association in a written notice pursuant to the foregoing paragraph to be taken by a Village Association shall be taken within the time frame set by the Master Association in such written notice, which time frame shall be reasonable. If Village Association fails to comply with the requirements set forth in such written notice, the Master Association shall have the right to effect such action on behalf of Village Association, the Master Association shall assess the Lots in such Village for their pro rata share of any expenses incurred by the Master Association in taking such action. Such Assessments may be collected as a Special Assessment hereunder and shall be subject to all lien rights provided for herein.

20.4.4 Entry Rights. The Master Association shall have the right, for itself, its designee, or any agent or employee, to enter upon any property administered by a Village Association to carry out the provisions hereunder or the applicable Supplemental Declaration, and the same shall not constitute a trespass.

20.4.5 Delegation. The Master Association shall have the right and power, but neither the duty nor the obligation, to delegate in whole or in part, exclusively or non-exclusively, and on a permanent or temporary basis, to any Village Association any obligation of maintenance or repair created under this Declaration or by delegation from Declarant. The Master Association shall have the right, at any time, by its sole act, to terminate such assignment and again fulfill such rights and obligations.

20.4.6 Right to Maintain Village Property. The Master Association shall have the right (but not the obligation) to maintain the Common Areas of the Village, including in particular, all landscaping within the Village, and may assess the cost of such maintenance as a Village Expense.

20.4.7 Priority. When a Supplemental Declaration or Village Association document pertaining to any Village is in conflict with this Declaration, the Articles or any documents of the Master Association, this Declaration and the other documents of the Master Association shall prevail.

Section 20.5 No Liability. Declarant, the Master Association and their directors, officers, agents, employees and affiliates shall have no liability or responsibility whatsoever to any Person concerning any matters pertaining to any Village Association.

Section 20.6 Indemnification. Village Associations and Owners each covenant and agree jointly and severally to indemnify, defend and hold harmless Declarant, its officers, directors, shareholders and any related persons or corporations and its employees from and against any and all claims, suits, actions, causes of action or damages arising from any personal injury, loss of life or damage to property sustained on or about the Common Areas or other property serving the respective Village Association and improvements thereon, or resulting from or arising out of activities or operations of the Owners or respective Village Association, and from and against all legal fees, expenses and liabilities incurred or arising from any such claim, the investigation thereof, or the defense of any action or proceedings brought thereon, and from and against any orders, judgments or decrees which may be entered relating thereto. The costs and expenses of fulfilling this covenant of indemnification shall be part of the Village Assessment for the respective Village Association to the extent such matters are not covered by insurance maintained by such Village Association.

Section 20.7 Dispute Resolution. The Master Association may, but shall not be obligated to, exercise jurisdiction over and act as arbiter with respect to any dispute between any Villages or Village Associations within Magnolia Landing.

ARTICLE XXI GOLF CLUB FACILITIES

Section 21.1 General. A portion of the Property will be operated as a golf course, restaurant, pro-shop and uses ancillary or customary thereto. The owner of the Golf Club Facilities will be a Member of the Master Association and will, after Turnover, appoint one (1) Member to the Board of Directors. The Golf Club Facilities are not Common Areas.

The owner of the Golf Club Facilities shall set membership and use policies and rules and regulations from time to time. Under no circumstances shall Owners begin play from Lots and the same shall be deemed a trespass. The Golf Club Facilities shall be developed and provided at the discretion of owner of the Golf Club Facilities. The owner of the Golf Club Facilities has the exclusive right to determine from time to time, in its sole discretion and without notice or approval of any change, how and by whom these facilities shall be used, if at all. Ownership of a Lot or any other portion of the Property or membership in the Master Association or any Village Association does not give any vested right or easement, prescriptive or otherwise, to use the Golf Club Facilities and does not grant any ownership, membership or use interest therein.

Section 21.2. Jurisdiction and Cooperation. It is Declarant's intention that the Master Association and owner of the Golf Club Facilities shall cooperate to the maximum extent possible in the operation of the Properties. Each shall reasonably assist the other in upholding the Community-Wide Standard as set from time to time. The Master Association shall have no power to promulgate rules and regulations affecting activities on or use of the Golf Club Facilities without the prior written consent of owner of the Golf Club Facilities. The ARC shall not have control or be required to approve changes to the Golf Club Facilities. The ARC shall not have control or be required to approve changes to the Golf Club Facilities.

Section 21.3. Easement for Golf Balls. Every Lot, the Common Area, Village Association common areas, and property owned by the CDD, are burdened with an easement permitting golf balls hit from the Golf Club Facilities to unintentionally come upon such property and for golfers at reasonable times and in a reasonable manner to come upon such property to retrieve errant golf balls; provided, however, if a Lot is fenced or walled, the golfer shall seek the Owner's or occupant's permission before entry. The Master Association, each Village Association, and all Owners, by acceptance and delivery of a deed to a Lot, assume all risks associated with errant golf balls, and the Master Association, each Village Association, and all Owners agree and covenant not to make any claim or institute any action whatsoever

against Declarant, owner of the Golf Club Facilities, the golf course designer, any Merchant Builder, or any other party other than the golfer who caused the property damage or personal injury, arising or resulting from any errant golf balls or golf clubs, any property damage or personal injury that may be caused thereby, or for negligent design of the golf course or siting of the Lot. Nothing in this paragraph shall in any way relieve golfers from liability for damages resulting from errant golf balls.

Section 21.4. Easement for Ingress, Egress, Maintenance, Operation and Parking. The owner of the Golf Club Facilities shall have an unrestricted easement for pedestrian, vehicular, golf cart and maintenance vehicle traffic across all streets, paths, Common Area, Village Association common areas, and property owned by the CDD, for accessing, use of, maintenance, repair and replacement of the Golf Club Facilities. Said easements shall be for employees, invitees and patrons of the Golf Club Facilities. In conjunction with special events held by the Golf Club Facilities, such as by way of example tournaments and exhibitions, owner of the Golf Club Facilities shall have the right to permit temporary parking on the rights-of-way within the Property, provided such parking does not unreasonably restrict access to and use of property serviced by such street.

Section 21.5. Assumption of Risk and Indemnification. Each Owner by its purchase of a Lot in the vicinity of the Golf Club Facilities hereby expressly assumes the risk of noise, personal injury or property damage caused by maintenance and operation of the Golf Club Facilities, including, without limitation: (a) noise from maintenance equipment and it being specifically understood that such maintenance typically takes place around sunrise or sunset, (b) noise caused by golfers; (c) use of pesticides, herbicides, fertilizers and spray effluent for irrigation; (d) view restrictions caused by planting and maturation of trees, shrubbery and golf course features, such as berms (whether planted or installed prior to Owner's occupancy of a Lot or subsequently planted or installed); (e) reduction in privacy caused by constant golf traffic on the golf course or the removal or pruning of shrubbery or trees on the Golf Club Facilities; (f) errant golf balls and golf clubs; and (g) design of the Golf Club Facilities, and agrees that neither Declarant, the Master Association, Village Association, nor any of Declarant's affiliates or agents nor any other entity owning or managing the golf course shall be liable to Owner or any other person claiming any loss of damage, including, without limitation, indirect, special or consequential loss or damage arising from personal injury, destruction of property, trespass, loss of enjoyment or any other alleged wrong or entitlement to remedy based upon, due to, arising from or otherwise related to the proximity of Owner's Lot to the Golf Club Facilities, including, without limitation, any claim arising in whole or in part from the negligence of Declarant, the Master Association, Village Association, or any entity owning or managing the Golf Club Facilities. Owner hereby agrees to indemnify and hold harmless Declarant, the Master Association, Village Association, and any entity owning or managing the Golf Club Facilities against any and all claims by Owner's visitors, tenants and others upon such Owner's Lot.

Section 21.6. Irrigation. To the extent authorized by governmental permit, Association and CDD shall, without compensation, permit owner of the Golf Club Facilities to use lakes and other water bodies within the Property for purposes of irrigation and surface water recharge. Notwithstanding the foregoing, the primary source of irrigation for the Golf Club Facilities are anticipated to be irrigated with effluent from North Ft. Myers Utility.

Section 21.7. Open Space. Notwithstanding the fact that the Golf Club Facilities may be open space or a recreation area for purposes of applicable zoning ordinances and regulations, each Owner by acquisition of title to a Lot releases and discharges forever Declarant, owner of the Golf Club Facilities, and their respective members, officers, directors, employees, agents and affiliates from: (a) any claim that the Golf Club Facilities are, or must be, owned and/or operated by the Master Association or the Owners, and/or (b) any claim that the Owners are entitled to use the Golf Club Facilities by virtue of their ownership of a Lot without acquiring a membership in the Golf Club Facilities, paying the applicable initiation fees, and dues, fees and charges established by owner of the Golf Club Facilities from time to time, and complying with the terms and conditions set from time to time by owner of the Golf Club Facilities.

Section 21.8. Owner of the Golf Club Facilities' Rights. The Master Association will not, without the prior written consent of owner of the Golf Club Facilities, take any action which would (a) unreasonably interfere with use of the Areas of Common Responsibility by the owner of the Golf Club Facilities, its

employees, invitees or patrons, (b) impose any restriction on use of the Golf Club Facilities, or (c) modify the Declaration or other governing documents in any manner adverse to the interest of owner of the Golf Club Facilities.

ARTICLE XXII CFM COMMUNITY DEVELOPMENT DISTRICT

Section 22.1 General. Declarant, the Master Association and each Owner acknowledges that the predecessor in title to Declarant has caused to be established a uniform community development district for the Magnolia Landing community, as defined in Chapter 190, Florida Statutes, known as the CFM Community Development District ("CDD"). The CDD will provide certain urban community development services and will have the authority to levy and collect fees, rates, charges, taxes and assessments to pay for, finance and provide such services. The CDD is empowered to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems and facilities permitted by Florida law. The CDD will impose taxes and/or assessments on all or portions of Magnolia Landing. These taxes will pay for the construction, operation and/or maintenance costs of certain public facilities within the CDD and will be set annually by the governing board of the CDD. These taxes and assessments are in addition to county and all other taxes and assessments provided for by law. These fees, rates, charges, taxes and assessments will either appear on the annual real estate tax bill for each Owner in which case they will be payable directly to the Lee County Tax Collector or they will appear on a separate bill issued to each Owner by the CDD. All taxes of the CDD shall constitute a lien upon those portions of Magnolia Landing owned by any Owner. The CDD shall have the power to issue any types of bonds permitted by Chapter 190, Florida Statutes.

Section 22.2 Assessments. The Master Association and each Owner of a Lot covenant and agree for themselves, and their respective successors and assigns, to pay any and all community development assessments, fees, charges and taxes which may be imposed by the CDD upon property owned by them to fund all or part of the cost of the acquisition, construction, operation and maintenance of community improvements and facilities, debt service thereof, and any other cost incurred by the CDD, and further agree to abide by all of the CDD's rules and regulations, as they may be amended from time to time.

Section 22.3 Required Disclosure. Each contract for the initial sale of a Lot and/or Home within the Property shall include, immediately prior to the space reserved in the contract for the signature of the purchaser, the following disclosure statement in boldfaced and conspicuous type which is larger than the type in the remaining text of the contract:

THE MAGNOLIA LANDING COMMUNITY DEVELOPMENT DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY. THESE TAXES AND ASSESSMENTS PAY THE CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF CERTAIN PUBLIC FACILITIES AND SERVICES OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO THE COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Declaration has been executed as of the date first above written.

**Signed, sealed and delivered
in the presence of:**

**TAYLOR WOODROW COMMUNITIES
AT HERONS GLEN, L.L.C.**, a Florida limited
liability company

**d/b/a TAYLOR WOODROW COMMUNITIES
AT MAGNOLIA LANDING, L.L.C.**, a Florida
limited liability company

Sign Name

Print Name

By: _____
Alan B. Smith, President

Sign Name

Print Name

STATE OF FLORIDA)
) ss:
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2006, by Alan B. Smith, as President of TAYLOR WOODROW COMMUNITIES AT HERONS GLEN, L.L.C., a Florida limited liability company, d/b/a TAYLOR WOODROW COMMUNITIES AT MAGNOLIA LANDING, on behalf of said limited liability company. He is [____] personally known to me or [____] has produced _____ as identification.

My Commission Expires:

Notary Public State of Florida

JOINDER OF MASTER ASSOCIATION

The undersigned hereby joins in this Declaration this ____ day of _____, 2006.

**MAGNOLIA LANDING MASTER
ASSOCIATION, INC.**, a Florida
not-for-profit corporation

Signed, sealed and delivered in the presence of:

Sign Name

Print Name

Sign Name

Print Name

By: _____
Alan B. Smith, Vice President

STATE OF FLORIDA)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2006,
by _____, as _____ of MAGNOLIA LANDING MASTER ASSOCIATION, INC., a
Florida not-for-profit corporation, he/she is [] personally known to me or [] produced
_____ as identification.

WITNESS my hand and official seal in the County and state aforesaid this ____ day of
_____, 2006.

(Seal)

My Commission Expires:

Notary Public

JOINDER OF CDD

The undersigned joins in this Declaration to acknowledge that the portions of the Property are hereby submitted to and shall hereafter be governed by this Declaration.

**Signed, sealed and delivered
in the presence of:**

CFM COMMUNITY DEVELOPMENT DISTRICT

Sign Name

By: _____
Michael J. Lane, Chairman,
Board of Supervisors

Print Name

Sign Name

Print Name

STATE OF FLORIDA)
) ss:
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2006, by _____, as Chairman of the Board of Supervisors of CFM COMMUNITY DEVELOPMENT DISTRICT, on behalf of said District. He is [____] personally known to me or [____] has produced _____ as identification.

My Commission Expires:

Notary Public State of Florida

EXHIBIT "A"

Legal Description of Initial Property

Exhibit "B"

Articles of Incorporation

Exhibit "C"

Bylaws

Exhibit "D"

Urban Stormwater Management Program

Exhibit "E"

Construction Pollution Prevention Plan