

This instrument was prepared by
and after recording return to:
Sean M. Ellis, Esquire
Roetzel & Andress, LPA
2320 First Street, Suite 1000
Fort Myers, FL 33901
(239) 337-3850

[Space Above This Line For Recording Data]

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
RICHMOND COVE

HOLIDAY BUILDERS, INC. a Florida corporation (hereinafter referred to as the “Developer” and the “Declarant”), is the fee simple owner of the lands more particularly described on **Exhibit “A”** (the “Properties”).

Declarant is the owner of the Properties, a residential planned development consisting of **eighty-five (85) residential lots**, and other related facilities (the “Project”). For the purpose of enhancing and protecting the value, attractiveness and desirability of the residential units and remainder of the Project constituting such development, Declarant hereby declares that all of the Properties and each part thereof shall be held, sold and conveyed subject to the following easements, covenants, conditions and restrictions which shall constitute covenants running with the land and shall be binding on all parties having any right, title or interest in the Properties, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

1. **DEFINITIONS.** References used in this Declaration and its recorded exhibits shall have the definitions set forth in Chapter 720, Florida Statutes (the “Act”), as it exists on the date of recording this Declaration.

1.1. **“Architectural Planning Criteria”** means and refers to any architectural planning criteria from time to time established by the Developer or by the Board for the Properties governing the type, style and other characteristics of improvements to be constructed within the Project.

1.2. **“Association”** shall mean and refer to Richmond Cove Homeowners’ Association, Inc., a Florida non-profit corporation, its successors and assigns.

1.3. **“Board”** means and refers to the Board of Directors of the Association.

1.4. **“Builder”** shall mean an owner, other than Declarant, of one or more developed but unimproved Lots for the purpose of construction of a single-family residential dwelling unit for sale to an end user, who holds a license for such construction, and who has been given the status of an approved “Builder,” in writing, by Declarant.

1.5. **“Common Area”** means all real and personal property (including the improvements thereto) now or hereafter owned, dedicated to and/or maintained by the Association for the common use and enjoyment of the Owners. The Common Area includes, without limitation, the Surface Water Management System (including dedicated drainage easements, stormwater and wetland tracts, and corresponding infrastructure), tracts for rights-of-way or access easements and corresponding roads and streets, utility easements or tracts for corresponding sewer and potable water, the roadways, all entrance

area monuments, all recreational facilities, all open space, landscape easements, all areas or Tracts dedicated to the Association on the Plat, and all other areas of the Properties intended for the common use and enjoyment of the Owners. The Declarant and the Board have the power to designate which areas of the Properties are Common Areas from time to time. The Common Areas shall be owned and/or maintained by the Association, unless dedicated, accepted and/or maintained by the City of Palm Bay, Florida, for the common use and enjoyment of the Owners, in accordance with the purposes for which they are intended, but no such use and enjoyment shall hinder, diminish, destroy, or encroach upon the lawful rights of the Owners.

1.6. “Conservation Areas” means those protected areas required by the City of Palm Bay Florida or the Florida Department of Environmental Protection including, but not limited to any wetland areas and buffer tracts protected under “Conservation Easements” (hereinafter defined), or any preserve areas or tracts within the Properties as described in the Plat, any conservation easement instrument, or any of the Permits. “Conservation Easement” means any areas, if any, as to which Declarant or the Association has conveyed to the City of Palm Bay, Florida and/or the Florida Department of Environmental Protection by separate easement, dedication on the Plat, or other means an easement for conservation and similar purposes.

1.7. “Declarant” or “Developer” means and refers to Holiday Builders, Inc., a Florida limited liability company. Whenever this term is used in this Declaration, the Articles or Bylaws of the Association, it shall always be deemed to include any successor in interest to the Declarant’s rights and obligations, provided that such is evidenced by a written instrument and recorded in the Public Records of Brevard County, Florida. Any or all of the Declarant’s rights and obligations may be assigned, in whole or in part, from time to time, to other parties. The Declarant may allow other parties to exercise, on a one-time or limited basis, any Declarant rights without transferring or relinquishing all of such rights, and in such case, a recorded instrument shall not be required. Unless otherwise provided in a written assignment, the assignment of all of the Declarant’s rights and obligations shall not result in the Declarant relinquishing its rights with respect to the real property it owns, nor being relieved of its obligations that accrued as of such date. The Declarant shall not be liable for acts or omissions made by or on behalf of a successor Declarant.

1.8. “Declaration” means and refers to this Declaration of Covenants, Conditions and Restrictions.

1.9. “Governing Documents” means and refers to this Declaration, and the Articles of Incorporation, Bylaws, any Rules and Regulations and the resolutions of the Association. In the event of a conflict in the interpretation of the Governing Documents, they shall be applied in the order of priority stated above.

1.10. “Guest” means any person who is physically present in or occupies a home on a temporary basis at the invitation of the Owner or other legally permitted occupant, without the payment of consideration.

1.11. “Institutional Mortgagee” means the mortgagee or assignee of a mortgage against a Lot or other portion of the Properties, which mortgagee or assignee is a bank, savings and loan association, mortgage company, real estate or mortgage investment trust, pension or profit sharing trust, the Federal Housing Administration, the Veterans Administration, any agency of the United States of America, or any other public or private corporation engaged in the business of guaranteeing or insuring first mortgage loans,

and their successors and assigns. An “Institutional Mortgage” is a mortgage held by an Institutional Mortgagee encumbering any such property.

1.12. “Lease” means the occupancy of the Lot by any person other than the Owner, whether pursuant to verbal or written agreement, where said occupancy by the non-owner involves consideration (the payment of money, the exchange of goods or services, or any other exchange of value), and shall specifically include, but not be limited to, arrangements such as those facilitated by Airbnb, FlipKey, VRBO, HomeAway, and similar companies or organizations regardless of whether the arrangements are classified as a rental, a license, or anything other than a lease..

1.13. “Lot” or “Lots”, “Parcel” or “Parcels” means one or more of the platted parcels of land into which the Project has been subdivided according to the Plat, upon each of which a home has been or will be constructed. Wherever herein the term “Lot” or “Parcel” is used, it shall be interpreted as if followed by the words “and home constructed thereon” except where the context clearly requires otherwise. The terms “Lot” and “Parcel” are used interchangeably throughout this Declaration and the Governing Documents.

1.14. “Member” means and refers to all persons who are members of the Association as provided in this Declaration, and in the Articles of Incorporation and Bylaws of the Association.

1.15. “Occupant” means any person who is physically present in the home for one or more nights, including staying overnight. “Occupy” means the act of being an occupant.

1.16. “Owner” or “Owners” means and refers to any person or persons, entity or entities, who are the record owner(s) of a recorded fee simple interest in and to any Lot or home in the Properties. The Declarant is an Owner, so long as it owns any Lots.

1.17. “Permit” or “Permits” means one or more of the zoning, land use, development, water management, wetlands and other approvals, permits, orders, consents and the like issued by The City of Palm Bay, Florida, the Florida Department of Environmental Protection, the St. John’s River Water Management District (“SJRWMD”), the State of Florida or any agency thereof or any other governmental authority relating in any manner to the Properties and Project and the use, development, and occupancy thereof.

1.18. “Plat” means the Plat or Plats of the Richmond Cove, the Subdivision, which encompasses the Properties and as recorded in the Public Records of Brevard County, Florida (“Plat”).

1.19. “Properties” or “Subdivision” means and refers to all the real property which is subject to this Declaration, as described on Exhibit “A”.

1.20. “Rules and Regulations” means and refers to any rules and regulations governing use of the Properties or Lots, and procedures for administering the Association and the Properties, as adopted, amended or rescinded by resolution of the Board from time to time.

1.21. “Sales Center” means any area and facilities located or to be located within the Properties and to be used by the Declarant or a Builder for the marketing of Lots and/or homes.

1.22. “Surface Water Management or Stormwater Management Systems” means and includes the surface water management system serving the Properties, including without limitation all Conservation Easements, if any, berms, drainage easements, lakes, wetland and other preserve areas and

all water management, drainage and related facilities and infrastructure located on, over, under and across the same or otherwise comprising a portion of the drainage system serving the Properties. The "Surface Water Management System" also means a system that is designed and constructed or implemented to control discharges 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 the system, as permitted pursuant to Chapter 62-330, F.A.C.

1.23. "Turnover Date" has the meaning given to it in Section 11.1 of this Declaration.

1.24. "Voting Interest" means and refers to the voting rights of Members of the Association who are entitled to cast votes in Association affairs, as set forth in Section 2.5 below.

2. ASSOCIATION; MEMBERSHIP; VOTING RIGHTS. The Association shall be responsible for administration and management of the Properties, including without limitation the maintenance, repair, replacement and operation of all Common Areas. The Association shall perform its functions pursuant to the following:

2.1. Articles of Incorporation. A copy of the Articles of Incorporation of the Association is attached as Exhibit "B".

2.2. Bylaws. The initial Bylaws of the Association shall be the Bylaws as attached as Exhibit "C".

2.3. Delegation of Management. The Association may contract with a management agent to assist the Association in carrying out its powers and duties by performing such functions as, without limitation, submission of proposals, collection of assessments, keeping of records, and enforcement of covenants and rules, with funds made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties provided in the Governing Documents.

2.4. Membership. Every person or entity who is a record Owner of a fee interest in any Parcel located upon the Properties shall be a Member, except that if a Parcel is subject to an agreement for deed, the purchaser in possession shall be considered the Owner for purposes of determining voting and use rights.

Membership shall be appurtenant to, run with, and may not be separated from the real property interest upon which membership is based.

2.5. Voting Interests. The Members of the Association are entitled to one (1) vote for each Parcel owned by them. The vote of a Parcel is not divisible. The right to vote may be denied because of delinquent assessments. If a Parcel is owned by one natural person, his right to vote shall be established by the record title. If a Parcel is owned jointly by two or more natural persons who are not acting as trustees, that Parcel's vote may be cast by any one of the record Owners. If two or more Owners of a Parcel do not agree among themselves how their one vote shall be cast, that vote may not be counted for any purpose. If the Owner of a Lot is not a natural person or is a trustee, the vote of that Parcel shall be cast by any officer, director, partner or trustee, as the case may be.

2.6. Approval or Disapproval of Matters. Whenever the decision or approval of the Owner of a Lot is required upon any matter, whether or not the subject of an Association meeting, such decision or approval may be expressed by any person who could cast the vote of such Lot as provided in

Paragraph 2.5 above if present in person at an Association meeting, unless the joinder of all record Owners is specifically required.

2.7. Termination of Membership. The termination of membership in the Association does not relieve or release any former Member from any liability or obligation incurred under or in any way connected with the Association during the period of his membership, nor does it impair any rights or remedies which the Association may have against any former owner or member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto.

2.8. Association As Owner of Lots. The Association has the power to purchase Lots and to acquire and hold, lease, mortgage, and convey them, subject to the approval of a majority of the Board.

2.9. Membership Roster. The Association shall maintain a current roster of names and mailing addresses of Owners and primary Occupants. A copy of the up-to-date roster shall be available to any Owner upon request.

2.10. Board of Directors. Except as otherwise specifically provided by law or by the Governing Documents, the Association shall act through its Board of Directors and its officers, and no vote of the Members shall be required. The Officers and Directors of the Association have a fiduciary relationship to the Members.

2.11. Powers and Duties. The powers and duties of the Association include those set forth in this Declaration, the Articles of Incorporation, and the Bylaws, and those provided in Chapters 607, 617, and 720, Florida Statutes, as applicable, to the extent not inconsistent with the foregoing documents, and shall without limitation specifically include the following:

(A) The Association shall have the power to acquire, purchase, own, sell, and convey property, including, without limitation, the Common Areas.

(B) The Association shall have the power and responsibility to operate, repair and maintain the Common Areas, including without limitation, the Surface Water Management System as set forth in this Declaration, as the same are permitted pursuant to the Permits and by the governmental authorities that have issued the Permits, from time to time. The Association shall pay the cost of discharging the above responsibilities.

(C) The Association shall have the power and authority to establish Rules and Regulations from time to time, as more particularly set forth herein or in the Articles of Incorporation and Bylaws.

(D) The Association shall have the power and authority to assess Members as hereinafter described and to enforce such assessments as hereinafter described.

(E) The Association shall have the power to contract for services to provide for the operation and maintenance responsibilities of the Association and the other duties and obligations of the Association.

(F) The Association shall have the power to contract, to borrow money and pledge or collaterally assignment Association personal property (including Assessments) as collateral, and the power to sue and be sued.

(G) The Association shall have all other powers necessary to effectuate the purposes for which it is formed and to perform its duties and obligations, as such purposes, duties and obligations are defined and described in this Declaration and the other Governing Documents.

(H) The Association shall have the power to maintain and operate street lighting for the Properties and to maintain and operate a security system (and/or entry gate[s] if permitted by The City of Palm Bay) for the Properties. In this regard, but subject to County regulations or ordinances, the Association shall have the option to place restrictions and safeguards on entries into the Properties via roadways.

(I) The Association shall have the power and duty to maintain certain portions of the Lots, as may be more particularly described herein.

(J) The Association shall be responsible for paying the cost of performing its duties and obligations under this Declaration and shall have the power to assess the Owners therefor.

(K) The Association shall have the right and power to enforce all warranties, agreements and similar assurances provided by any person or entity with respect to the Common Areas, including without limitation, any design and construction warranties.

(L) In the event any of the Common Area shall be conveyed to the Association, the Association shall provide for the maintenance and protection of the Common Area for the Association and the benefit of the Owners; provided, however, that the Association shall also provide for the maintenance and protection of all other Common Areas as well.

The foregoing powers of the Association may be exercised by the Board alone, without need for approval of the Members, unless Membership approval is expressly required by the Governing Documents or the Act for specific action.

3. COVENANT FOR ANNUAL AND SPECIAL ASSESSMENTS.

3.1. Creation of Lien and Personal Obligation for Assessments. Subject to the limitations of Section 3.3 below, the Developer, for each Lot within the Properties, hereby covenants, and each subsequent Owner of any Lot (including any purchaser at a judicial sale), by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

(A) The Lot's prorata share of annual assessments based on the annual budget adopted by the Association; and

(B) The Lot's prorata share of special assessments not provided for by annual assessments; and

(C) Any charges against less than all of the Lots ("Individual Lot Assessment") where specifically authorized in this Declaration or the Bylaws and levied against the Lot.

(D) If adopted by the Board or required by the Developer in connection with Lot sales, upon the transfer of any Lot (excluding transfer from the Declarant to a Builder), the buyer shall pay at closing to the Association a capital contribution in the amount equal to such amount as is adopted by the Board of Directors from time to time. Said capital contribution shall be a onetime contribution to the

working capital fund of the Association and in no way shall be treated as a prepayment of assessments charged to that Lot. Without limitation, such funds may be used as additional working capital, may be used to pay expenses of the Association, may be expended for capital improvements to the Common Area, and may be used to purchase personal property for use by the Association or the Owners.

Assessments shall be established and collected as provided herein and in the Bylaws. The annual and special assessments and charges, including any Individual Lot Assessment, together with interest, costs, and reasonable attorney's fees shall bind each Lot against which they are levied, the Owner of the Lot, and the Owner's heirs, devisees, personal representatives, successors and assigns. In any conveyance of title, voluntary or otherwise, the transferee shall be jointly and severally liable with the transferor for all unpaid assessments coming due prior to the time of such conveyance, without prejudice to the rights of the transferee to recover from the transferor the amounts paid by the transferee therefor.

The assessments levied by the Association shall be used to promote the recreation, health, safety and welfare of the residents of the Properties; for the improvement, maintenance, repair, protection, and operation of the Common Area, and for the carrying out of the other responsibilities and obligations of the Association.

3.2. Share of Assessments. Except as otherwise provided below, each Lot and the Owner thereof shall be liable for an equal share of all annual and special assessments, such share being a fraction of the whole, the numerator being the number "one" and the denominator being the total number of Lots within the Properties as to which Lot assessments have commenced.

3.3. Commencement and Collection of Annual and Special Assessments. The assessments provided for herein shall commence as to each Lot as of the date of (i) conveyance of the Lot or Lot to an Owner other than Declarant or any Builder, and (ii) issuance of a certificate of occupancy or similar governmental approval for a completed residence on the Lot. No Lot shall be or become subject to or required to pay the assessments provided for hereunder until such time as it has been conveyed by the Declarant to the first Owner other than Declarant or any Builder, which shall be prorated accordingly. The Board shall fix the amount of any annual or special assessment against each Lot and shall fix the dates such amounts become due. Annual assessments shall be due and payable quarterly (unless the Board establishes otherwise) in advance. The Association shall, on demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether all assessments against the specific Lot have been paid.

3.4. Establishment of Liens. Any and all assessments and charges levied by the Association in accordance with the provisions of this Declaration or any of the Governing Documents, together with interest at the highest rate allowed by law, and collections costs and reasonable attorneys' fees (including, but not limited to attorneys' fees and costs related to a mortgage foreclosure or affecting the Lot or bankruptcy of an Owner) are hereby declared to be a charge and continuing lien upon the Lot against which each such assessment or charge is made, and shall also be the personal obligation of the Owner of each Lot assessed. This lien shall relate back to the date of recording of this Declaration and shall be superior to all rights and interest of others acquired after that date, except to the extent otherwise expressly set forth herein. This lien shall be superior to any homestead rights the Owner may acquire. No Owner may exempt himself from personal liability for assessments and charges, or release the Lot owned by him from the liens and charges hereof, by waiver of his rights, or by abandonment of his Lot. Said lien shall be perfected upon the recording in the Public Records of Brevard County, Florida, of a Claim of Lien by the Association, setting forth the amount and due date of each unpaid assessment as of the date the Claim

of Lien is recorded. A Claim of Lien shall secure payment of all assessments and charges due at the time of recording (including interest, costs and attorney's fees as provided above), as well as all assessments, and charges, late fees, interest, costs and attorneys' fees, coming due subsequently, until the Claim is satisfied or a final judgment of foreclosure obtained. Upon full payment of all sums secured by that Claim of Lien, the party making payment is entitled to a satisfaction in recordable form.

3.5. Priority of Liens. The foregoing notwithstanding, unless provided to the contrary in the Act, the Association's lien for unpaid assessments shall be subordinate and inferior to: the lien of all taxes and other levies which by law would be superior thereto. Except for the Association's claims and rights under the Act which shall be superior to the rights of a First Institutional Mortgagee under an Institutional Mortgage, which claims and rights include, without limitation, an Institutional Mortgagee's obligation to pay to the Association unpaid assessments, interest, late fees, attorneys' fees and costs, including attorneys' fees and costs related to a mortgage foreclosure affecting the Lot or bankruptcy of the Owner, and otherwise to the maximum extent set forth in the Act, the Association's lien shall be subordinate and inferior to the lien of any recorded Institutional Mortgage, unless the Association's Claim of Lien was recorded prior to the Institutional Mortgage, but the Association's lien shall be superior to, and take priority over, any other mortgage or lien regardless of when recorded. The Association's lien is effective from and shall relate back to the date that the Declaration was originally recorded. Any lease of a Lot shall be subordinate and inferior to the lien and any Claim of Lien of the Association, regardless of when the lease was executed. A mortgagee in possession, a receiver, a purchaser at a foreclosure sale or other judicial sale, or a mortgagee that has acquired title by deed in lieu of foreclosure, and all persons claiming by, through or under such purchaser or mortgagee, shall hold title subject to the liability and lien of any assessment or charge coming due after taking title. Any unpaid assessment or charge which cannot be collected by reason of the provisions of this Section shall be treated as a special assessment divided equally among, payable by, and assessed against all Lots, including the Lot as to which the foreclosure (or conveyance in lieu of foreclosure) took place.

3.6. Collection of Assessments. If any Owner fails to pay any assessment, charge, or installment thereof, within ten (10) days after the same becomes due, then the Association shall have any or all of the following remedies, to the extent permitted by law, which remedies are cumulative and are not in lieu of, but are in addition to, all other remedies available to the Association:

(A) To charge interest on such assessment or charge, from the date it becomes due until paid, at the highest rate allowed by law, as well as to impose a late payment penalty of Twenty-Five Dollars (\$25.00). A late fee is not subject to the provisions of Chapter 687, F. S. and is not a fine.

(B) To accelerate the due date for the entire remaining unpaid amount of the annual assessment and any special assessment against the Owner's Lot for the remainder of the calendar year notwithstanding any provisions for the payment thereof in installments.

(C) To file an action in equity to foreclose its lien. The lien may be foreclosed by an action in the name of the Association in the same manner as provided in Section 720.3085 of the Act, as amended from time to time, for the foreclosure of liens on condominium parcels for unpaid condominium assessments, unless another method is required for a homeowner's association.

(D) To bring an action at law for a money judgment against the Owner without waiving any foreclosure rights of the Association.

(E) If an Owner is delinquent for more than ninety (90) days in paying any monetary obligation due to the Association, to levy reasonable fines, or may suspend the Owner's right to use common areas or common facilities until the monetary obligation is paid, except for that which must be used to access the Lot, utility services or parking. Any such fines or suspension shall be imposed in accordance with the requirements of the Act.

(F) If an Owner is delinquent for more than ninety (90) days in paying any monetary obligation due to the Association, to suspend the voting rights of the Member until the monetary obligation is paid. Any such suspension shall be imposed in accordance with the Act.

(G) As an additional right and remedy of the Association, upon default in the payment of Assessments as aforesaid and after thirty (30) days' prior written notice to the applicable Owner and the recording of a claim of lien, the Association may declare the Assessment installments due for the remainder of the budget year in which the claim of lien was filed to be accelerated and immediately due and payable.

(H) If a Lot is occupied by a tenant and the Owner is delinquent in paying any obligation due to the Association, the Association may make written demand on the tenant to pay directly to the Association the future monetary obligations related to the Lot, and the tenant must make such payment. Such demand shall be continuing in nature and the tenant must continue to pay the monetary obligations until the Association releases the tenant or the tenant discontinues its tenancy, provided that the tenant shall not be liable for any increase in monetary obligations due unless the tenant was notified in writing of the increase at least ten (10) days before the date on which rent is due. If the tenant fails to make such payment the Association may sue for eviction under Sections 83.59-83.625, Florida Statutes, as if the Association were a landlord thereunder, however, the Association is not otherwise considered a landlord under Chapter 83 of the Florida Statutes and shall have no duties thereunder.

3.7. Certificate. The Association shall, within fifteen (15) days of request for same, furnish to any Owner liable for assessments, purchaser of a Lot, or actual or proposed mortgagee of a Lot, a certificate in writing signed by an officer of the Association, setting forth whether all assessments and charges have been paid. Except with respect to an Owner of the Lot holding title to a Lot when a certificate is furnished, such certificate shall be conclusive evidence of payment of any assessment and charges therein stated to have been paid.

3.8. Developer Subsidy. The Declarant may, but will not be obligated to, subsidize the difference between the Association's expenses of operation and revenues received by the Association from annual and special assessments levied against any Lots and all other income to the Association or sources of revenue. Such difference, herein called the "deficiency," shall not include any reserve for replacements, operating reserves, depreciation reserves, capital expenditures or special assessments. Funding any such deficiency in any fiscal year or in any singular event, will not create an ongoing responsibility for the deficiency from Declarant. Further, the in lieu of subsidizing any deficiency, the Declarant may use any other income to the Association to offset such deficiency, or may loan funds to the Association to fund a deficiency or to fund certain capital improvements.

4. ARCHITECTURAL AND AESTHETIC CONTROL.

4.1. Necessity of Architectural Review and Approval. Except for Developer or Builders who receive prior architectural approval from Developer, no Owner shall make or permit the making of any alterations or additions to his Parcel or the Common Area, or in any manner change the

exterior appearance of any portion of the home, without first obtaining the written approval of the Architectural Reviewer, which approval may be denied if the Architectural Reviewer determines that the proposed modifications or alterations would adversely affect, or in any manner be detrimental to the Project in part or in whole. Any glass, screen, curtain, blind, shutter, awning, or other modifications, additions or installations which may be installed where visible from outside the home, are subject to regulation by the Architectural Reviewer. The installation of hurricane shutters shall be subject to regulation by the Architectural Reviewer. No Owner may alter the landscaping of the Common Area in any way without prior approval of the Architectural Reviewer.

4.2. Architectural Review. The architectural review and control functions of the Association shall be administered and performed by the "Architectural Reviewer", as defined herein. Until the Turnover Date, the Declarant shall be the Architectural Reviewer and shall have the exclusive right to exercise architectural review under this Section. Declarant may delegate its reserved rights hereunder to any entity, including the Board of Directors or an Architectural Review Committee appointed by the Board of Directors, in which case the delegate shall be deemed the Architectural Reviewer.

4.3. Powers and Duties of Architectural Reviewer. The Architectural Reviewer shall have the following powers and duties:

(A) To enact modifications and/or amendments to Architectural Planning Criteria. Any modification or amendment to Architectural Planning Criteria shall be consistent with the provisions of this Declaration. Notice of any modification or amendment to Architectural Planning Criteria, including a verbatim copy of such change or modification, shall be delivered to each member of the Association; provided that the delivery of a copy of the modification or amendment to Architectural Planning Criteria shall not constitute a condition precedent to the effectiveness or validity of such change or modification.

(B) To require submission of one (1) complete set of all plans and specifications for any improvement or structure of any kind, including without limitation, any building, fence, wall, sign, site paving, grading, parking and building additions, alteration, screen enclosure, sewer, drain, disposal system, decorative building, landscaping, landscape device or object or other improvement, the construction of placement of which is proposed upon any Parcel or portion of the Properties, together with a copy of any required governmental permits. The Architectural Reviewer may also require submission of samples of building materials and colors proposed for use on any Parcel or the Property and may require such additional information as reasonably may be necessary for the Architectural Reviewer to completely evaluate the proposed structure or improvement in accordance with this Declaration and the Architectural Planning Criteria. Reviews shall be coordinated with required governmental approvals. The Architectural Reviewer shall have thirty (30) days to respond once a complete set of plans and specifications have been submitted. Failure to respond within said thirty (30) days shall be deemed an approval.

(C) To approve or disapprove any improvement or structure of any kind, including without limitation, any building, fence, wall, sign, site paving, grading, pools, parking and building additions, alterations, screen enclosure, sewer, drain, disposal system, decorative building landscaping, landscape device or object, or other improvement or change or modification thereto, the construction, erection, performance or placement of which is proposed upon any Parcel or portion of the Properties and to approve or disapprove any exterior additions, changes, modifications or alterations (including, but not limited to, changes in exterior colors, finishes and materials) therein or thereon. All decisions of the Architectural Reviewer shall be in writing and may, but need not be made by a certificate in recordable form.

(D) To approve or disapprove any change, modification or alteration to any improvement or structure as hereinabove described, and the plans and specifications if any upon which such change modification or alteration is based, prior to commencement of construction of such change, modification or alteration. If any improvement or structure as aforesaid shall be changed, modified or altered without prior approval of the Architectural Reviewer of such change, modification or alteration, and the plans and specifications therefore, if any, then the Owner shall upon demand, cause the improvement or structure to be restored to comply with the plans and specifications, originally approved by the Architectural Reviewer and shall bear all costs and expenses of such restoration, including costs and reasonable attorney's fees of the Architectural Reviewer or the Association. The Architectural Reviewer shall be specifically empowered to grant variances from the covenants, conditions and restrictions as contained herein and as are deemed reasonable, required or necessary to meet the needs of the particular building site.

(E) To adopt a schedule of reasonable fees for processing requests for approval or proposed improvements. Such fees, if any, shall be payable to the Architectural Reviewer, in cash, at the time that plans and specifications are submitted to the Architectural Reviewer. In the event such fees, as well as any other costs or expenses of the Architectural Reviewer pursuant to any other provisions of this Article are not paid by the Owner, they shall become a lien on the Owner's Property. Notwithstanding the foregoing, no Builders will be charged any such architectural review fees related to Lots owned by such Builder.

(F) To monitor construction to verify compliance with the provisions hereof and any approvals and conditions of the Architectural Reviewer.

4.5 Developer Construction. The provisions of this Article shall not apply to Developer. Developer reserves the right to alter the plan of development and architectural style of the Properties and homes as it deems desirable in its sole discretion.

5. EASEMENTS.

5.1. Utility and Service Easements. The Developer (during any period in which the Developer has any ownership interest in the Properties) and the Association shall each have the right to grant such electric, telephone, cable television, gas, water, sewer, irrigation, drainage, central service, ingress and egress easements or other easements over, under, in and upon the Properties in favor of Declarant, the Association, and their respective designees, and appropriate utility and other service corporations or companies, and to relocate any existing easements in any portion of the Properties as the Developer or the Association shall deem necessary or desirable, for the proper operation and maintenance of the Properties, or any portion thereof, for the general health or welfare of the Owners, for the purpose of carrying out any provisions of this Declaration or for other purposes deemed appropriate and reasonable by the Developer or the Association. Such easements, or the relocation of existing easements, may not prevent or unreasonably interfere with the use of the property burdened thereby. Each Lot and other portions of the Properties shall be subject to an easement in favor of all other portions of the Properties, to locate utilities and provide drainage and support and to use, maintain, repair, alter and replace any common walls, structural supports, roofs, pipes, wires, ducts, vents, cables, conduits, public utility lines and other similar or related facilities serving other portions of the Properties. Each public or private utility company benefited by any utility easement created by any Plat or this Declaration shall own all utility facilities operated by it in the utility easement and be responsible for maintaining such facilities, including without limitation all cable, electric, sewer, potable water, and irrigation facilities. The Association shall be benefited by any utility easement located within the Properties, whether or not so expressed in the plat or other document

creating any such easement, and shall own any utility facilities (including without limitation irrigation facilities) owned by it within any such easement. The surface of all utility easements shall be maintained by the Association or other Owner of the Properties which owns such surface, in accordance with the other terms of this Declaration.

5.2. Lateral and Subjacent Support. Each portion of the Properties shall be subject to an easement in favor of adjoining portions of the Properties for lateral and subjacent support.

5.3. Access and Other Easements. The Properties have been subdivided pursuant to the Plat. The roadways, as shown on the Plat, and the utility easements created pursuant to the Plat, are intended in all cases to serve all of the Properties, unless otherwise directed by the Declarant. Without limiting the generality of the foregoing, in the event any portion of the Properties are withdrawn from this Declaration (and thus deleted from the definition of Properties), such withdrawn land shall nevertheless be benefited by the following easements over the remainder of the Properties: (i) an ingress and egress easement, on, over and across the roadways; and (ii) a utility easement for electric, telephone, cable television, water, sewer, and other utility facilities on, over, under and across all utility easements created pursuant to the Plat. At the request of the owner of any such withdrawn lands, the Association shall by recordable instrument in writing grant the foregoing easements to such owner, and in all cases the Developer hereby reserves unto the Association the right to grant such easements. The owner of such withdrawn lands, its successors and assigns, shall with respect to such easements in all cases be subject to the covenants, conditions and restrictions of this Declaration applicable to the use and operation of such areas and to the reasonable Rules and Regulations of the Association related thereto.

5.4. Drainage Easement. Declarant reserves in favor of the Association a blanket non-exclusive easement and right on, over, under and through the ground within the Properties to maintain and correct drainage of surface water and other erosion controls. This easement includes the right to cut any trees, bushes or shrubbery, grade soil, or to take any other action reasonable necessary for health, safety or appearance or to comply with governmental requirements. The Association shall notify affected Owners (except in an emergency) and shall restore the affected property to its original conditions as nearly as practicable. This easement may be exercised by the Association. Without limiting the generality of the foregoing language, the Owner of each Lot shall maintain in good and operational condition and repair the areas of the Owner's Lot constructed or approved for use as part of the Surface Water Management System. No such area shall be altered and no improvements, including fences, shall be placed or allowed to be placed or to remain in such areas without the prior written approval of the Declarant, the Board of Directors, or the Architectural Reviewer.

6. MAINTENANCE; IMPROVEMENTS.

6.1. Maintenance by Owner. The maintenance, repair and replacement of any Lot shall be the individual Owner's responsibility. Each Owner shall also be responsible for the general appearance of its property and to keep the same in good order and repair at all times. Each Owner is responsible for the lawn and landscaping on his Lot, to include irrigation, regular lawn cutting, trimming of plants and shrubs on a regular basis and, where necessary, replacement of lawns, plants and shrubs. All Owners owning Lots adjoining Common Areas shall be required to install grass or landscape to the edge of the water or vegetation located in the Common Area, and to maintain such grass or landscaping, regardless of the where the exact boundary line lies between the Lot and Common Area. The Owner is also responsible for his own driveways. Every Owner of a Lot is hereby prohibited from: (i) temporarily or permanently filling the Surface Water Management System facilities located underneath the improvements constructed on their Lot with dirt or any type of fill material; (ii) parking vehicles or storing items under the

improvements constructed on their Lot unless such parking or storing does not interfere with the Surface Water Management System located on their Lot; and (iii) blocking or impeding the flow of stormwater into the portion of the Surface Water Management System located on their Lot.

6.2. Maintenance by the Association. The responsibility of the Association is to repair, maintain and replace any and all improvements and facilities located upon the Common Areas. Maintenance includes, but is not limited to, the following: cleanup, upkeep of any sidewalks, parking areas, recreational facilities, entry features and signage, any lift station/grinder station, and regular lawn cutting, fertilizing and trimming of plants and shrubs within the Common Areas, and Association-owned roadways and utilities tracts (subject to the rights and responsibilities for maintenance of all public and private utilities as set forth on the Plat). The Association shall also be responsible for any common lawn sprinkler system located on the Common Areas. The Association shall also provide maintenance, repair and replacement services to any landscape buffer areas, any entry feature, and any roadway island within the Properties.

(A) Open Space and Buffers. Any property conveyed or dedicated to the Association which is designated as open space, landscape easement/buffer, preserve area, or conservation area on any plat, permit, or other document recorded in the Public Records of the County, shall be preserved and maintained by the Association in a natural open condition. The Association or any subsequent owner shall not do anything that diminishes or destroys the open space, buffer, preserve area, or conservation area, and such areas shall not be developed for any purpose except that which improves or promotes the use and enjoyment of such areas as open space, including without limitation as a “tot lot” or similar use.

(B) Surface Water Management System. The Association will be responsible for the maintenance, operation, and repair of the Surface Water Management System, the costs of which shall be included in the assessments levied by the Association against each Lot. Maintenance of the Surface Water Management System shall mean the exercise of practices which allow the system to provide drainage, water storage, conveyance or other stormwater management capabilities as permitted by the SJRWMD and the Florida Department of Environmental Protection. The Association shall be responsible for such maintenance and operation. Any repair or reconstruction of the Surface Water Management System shall be as permitted or, if modified, as approved by the SJRWMD or the Florida Department of Environmental Protection.

(C) Conservation Areas. The Association shall be responsible for the maintenance and regulatory compliance of any Conservation Areas, including all Conservation Easements, located on the Properties, in accordance with rules, regulations and permitting requirements set forth by the City of Palm Bay, Florida, the Department of Environmental Protection, and other permitting agencies. No person shall undertake or perform any activity in any Conservation Areas which is prohibited in the approved Permits and Plats of the Properties, or remove native vegetation that becomes established within any Conservation Areas. Prohibited activities within any Conservation Areas include the removal of native vegetation, excavation, placement or dumping of soil, trash or land clearing debris, and construction or maintenance of any building or other structure. “Removal of native vegetation” includes dredging, application of herbicides, pulling and cutting.

6.3. Completion of Properties. Declarant may and intends to undertake the work of developing all of the Properties. The completion of that work, or the sale, lease, or other disposition of homes constructed thereon, is essential to the establishment and welfare of the Properties as an ongoing residential community. In order that such work may be completed and the Properties established as a fully occupied residential community as soon as possible, nothing in this Declaration shall be understood or construed to prevent the Developer, or the employees, contractors or sub-contractors of Developer, or of

Developer's designees by written instrument recorded in the Public Records of Brevard County, Florida (if any), from doing whatever they may determine to be reasonable, necessary or advisable for the completion of the work and the establishment of the Properties as a residential community.

6.4. Enforcement of Maintenance. The St. John's River Water Management District and the Florida Department of Environmental Protection 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 and repair of the Surface Water Management System. Further, if the Owner of a portion of the Properties fails to maintain it, as required in this Declaration, the Association shall have the right to institute legal proceedings to enforce compliance, or may take any and all other steps necessary to remedy such violation, including but not limited to entering the Owner's property, with or without consent of the Owner. The Association may repair, replace, or maintain any item which constitutes a hazard to other property or residents, or which has a material adverse effect on the appearance of the Properties. Any expenses so incurred by the Association shall be assessed against the Owner and Lot as an Individual Lot Assessment, together with reasonable attorney's fees and all other expenses of enforcement.

6.5. Negligence; Damage Caused by Condition of the Lot. The Owner of each Lot shall be personally liable for the expenses of any maintenance, repair or replacement made necessary by his negligence or by that of any member of his family or his guests, employees, agents, or lessees; but such liability shall be limited to the extent that such expenses are not met by the proceeds of insurance available to the injured person.

6.6. Alterations and Additions to Common Areas. Material alterations or substantial additions to the Common Areas may be undertaken and funds necessary levied as special assessments by the Association only upon approval by a majority of the Board of Directors and, prior to the Turnover Date, the Developer.

7. INSURANCE. The Association shall obtain and maintain adequate insurance for the Association Property (with provisions for deductibles) as follows:

(A) Casualty. To the extent that there is Association property containing any improvements, the coverage shall afford protection against loss or damage by fire or other hazards covered by a standard extended coverage endorsement, and such other risks as are customarily covered with respect to improvements on the Association property, including, but not limited to, flood (if required by law), vandalism, or malicious mischief. All or any part of such coverage may be extended to include the Association's personal property as the Board may deem desirable. The Association shall act as agent of the Owners and shall adjust all losses on their behalf.

(B) Liability. Premises and operations liability for bodily injury and property damage in such limits of protection and with such coverage as are determined by the Board of Directors.

8. GENERAL COVENANTS AND RESTRICTIONS.

8.1. Use Restrictions. The Properties shall be used for single-family residences, Common Areas, and other uses permitted by Declarant and for no other purposes. No business buildings may be erected on any portion of the Properties and no business may be conducted on any part thereof, unless the Board otherwise approves. Notwithstanding the above provisions, the Declarant may, in its sole discretion, use or permit portions of the Properties to be used or maintained as Sales Centers or as one (1) or more model homes.

8.2. Building Setback Lines, Size of Building Site Restrictions and Building Height, Etc. All structures shall conform to the requirements of the City of Palm Bay, the Permits, the Plat, and the Governing Documents, including without limitation as to minimum lot area and width, setbacks, height and number of stories and distances between buildings.

The Developer and, after the Turnover Date, the Board may, so long as compliance with the Permits and applicable law is maintained and/or all necessary prior approvals or variances from such Permits and applicable laws and regulations have been obtained, (i) grant variances from the City of Palm Bay standards or the Plat, and, without limitation, may establish specific setbacks as to any Lot or other portions of the Properties, including without limitation corner Lots, with individual characteristics rendering the standard setbacks improper or impractical; and (ii) establish other setback lines and other standards for the Properties; or (iii) grant licenses to allow encroachments into any private drainage easements or private tracts on the Plat.

8.3. Leasing. An Owner may lease his Lot without prior Board approval of tenants, subject to the restrictions and conditions contained in this Section 8.3. Only entire homes may be leased. The minimum leasing period is one hundred eighty-one (181) days. All leases must and shall be deemed to contain the agreement of the tenant(s) to abide by all of the restrictions contained in the Governing Documents and shall be deemed to provide that a violation thereof is grounds for damages, termination and eviction and that the tenant and the Owner agree that the Association may proceed against either the Owner or the tenant and that the Owner or the tenant shall be responsible for the Association's costs and expenses, including attorney's fees and costs, secured by a lien against the Parcel. No individual rooms may be rented and no transient tenants may be accommodated. "Rent-sharing," "room for rent," and subleasing are prohibited. No Owner, their heirs, successors and/or assigns shall do anything to cause the Association or any Lot to be deemed a public lodging establishment or other transient establishment under Federal or Florida law or local ordinance. No Owner nor anyone on their behalf shall publish or cause to be published any advertisement, notice, solicitation, or communication of any type in any form of media, including but not limited to television, radio, internet website, newspaper, magazine, or trade publication, that indicates or suggests that a Lot may be leased for any period less than 181 continuous days, anything less than the entire home on the Lot may be leased, separate rooms within the home may be leased separately, or a Lot may be leased on a timeshare basis. Publication of daily or weekly rates for lease of a Lot shall constitute a violation of this provision. The Board has the power to adopt, amend and repeal rules and regulations governing Leases of Lots.

8.4. Nuisance. No noxious or offensive activity shall be carried on upon any Lot or other portions of the Properties, nor shall anything be done that is or may become a reasonable source of annoyance or nuisance to other residents.

8.5. Temporary Structures. No structure of a temporary character, including, but not limited to, trailer, tent, or shack, shall be used on any portion of the Properties at any time as a residence, either temporarily or permanently.

8.6. Garages. No garages shall be converted to residential use or use other than as originally designed with the exception of conversion of a garage by the Developer Model Home for use as a temporary sales office.

8.7. Signs. No Owner other than Declarant may post or display any sign in public view on a Lot or Tract or on the Common Areas or other portions of the Properties, without the prior written consent of the Association. Notwithstanding the foregoing, Owners may place one (1) small sign in a single

location indicating the security/alarm company protection for the Parcel, if any; and when a Parcel is actively being marketed for sale Owners may place one (1) "For Sale" sign on the lawn of their Parcel.

8.8. Appearance; Refuse Disposal. After closing of title, each Owner shall keep his Lot free and clear of weeds, underbrush, unsightly growths, trash and debris and shall reasonably maintain his Lot. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers suitably stored in the enclosed garage of homes or as otherwise permitted by the Association. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. No garbage incinerators shall be permitted.

8.9. Maintenance. The Declarant shall care for vacant or unimproved Lots owned by it and other areas within the Properties owned by it, remove and destroy tall grass, undergrowth, weeds and rubbish therefrom, and do any other things and perform any labor necessary or desirable in the judgment of the Declarant to keep the unimproved portions of the Properties owned by it in good order. The Association shall have the right to repair any structure or improvement on any portion of the Properties which constitutes a danger or nuisance or is in unsightly disrepair, provided that the Owner thereof is given reasonable notice of the Association's intent to do so, which notice reasonably specifies the proposed action. The Association shall charge the expense of same against the Owner of said Lot or Lot as an Individual Lot Assessment, which charge shall be a lien on the Lot, which lien may be foreclosed and shall also secure the Association's attorneys' fees and other costs in connection with said foreclosure.

8.10. Awnings, Window Coverings and Hurricane Shutters. Awnings, hurricane shutters, window film (including reflective film), and other window shading or decoration and any similar equipment shall be subject to the prior approval and control of the Board as set forth in Section 4 of this Declaration. Roll-down hurricane shutters must be installed inside the exterior walls of homes except to the extent they are within screened lanais or porches.

8.11. Fences. The only style of fence permitted on Lots 48 through 85 (which are interior lots), shall be forty-eight inch (48") aluminum fencing that is black in color. Hedges are permitted on all Lots, provided that (i) hedges on said Lots 48 through 85 may not exceed 48" in height, and hedges on all other lots may not exceed six feet (6') in height. No fence may be constructed in any platted easement, or in any drainage swale or berm that is part of the surface water management system. In all events, all fences, walls, or other similar structure, except as originally installed by Developer, must receive advance approval of the Architectural Reviewer as set forth in Section 4 of this Declaration. The Board may adopt Rules and Regulations or architectural review guidelines from time to time which restrict the location, style, color, and height of fences and hedges. Notwithstanding the foregoing, the Declarant may vary or exceed such height in constructing a fence, and further, the Declarant or the Architectural Reviewer may grant variances to the foregoing fence restrictions, to address specific lot conditions, provided that no fence may ever impede drainage or otherwise interfere with the surface water management system, or the Association's maintenance thereof.

8.12. Lawns and Landscaping. The landscaping on the Common Area, including without limitation, the trees, shrubs, lawns, flower beds, walkways and ground elevations, shall be maintained by the Association. No landscaping on the Common Area shall be installed, cut down, destroyed or removed without the prior written approval of the Board or the Architectural Reviewer as set forth in Section 4 of this Declaration. All Lots and other improved areas are to be sodded. No artificial grass, plants, or other artificial vegetation shall be placed or maintained upon the exterior portion of any Lot or other portion of the Properties, unless approved by the Board or the Architectural Reviewer as set forth in Section 4. The only species of grass permitted on any Lot is Floratam sod, provided, however, that

the Declarant or the Association may plant or allow alternate species of grass within drainage easements. Each Lot must have an independent, underground irrigation system, which must be maintained by the respective Lot Owner, at their sole cost and expense.

8.13. Outside Lighting. Except as may be initially installed by Developer, no spotlights, floodlights, or other outdoor lighting shall be placed or utilized upon any portion of the Properties which in any way will allow light to be reflected on any other property or the improvements thereon without the written authorization of the Board as set forth in Section 4 of this Declaration.

8.14. Commercial Activities. No business or commercial activity shall be conducted on the Properties except the Developer's or a Builder's construction of improvements, and the promotion and holding of special events. The Declarant or Board of Directors may, in their sole discretion, grant variances from the foregoing restriction to allow a "home occupation" to the extent allowable under the zoning and other ordinances and regulations of the City of Palm Bay, Florida, and, further, subject to such standards, rules and regulations as the Board may establish. Notwithstanding the foregoing, the Declarant may, in its sole discretion, permit portions of the Properties to be sold or maintained as sales offices or one (1) or more model homes.

8.15. Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, Tract or on the Common Areas; however, dogs, cats and other household pets may be kept in a Lot subject to such Rules and Regulations as may be adopted by the Board from time to time as long as they are not kept, bred or maintained for commercial purposes. If, in the sole judgment of the Board, it is determined that a pet is causing excessive disturbance and annoyance to other occupants, the Owner may be asked to remove the pet from his Lot. All animals shall be on leash or carried when outside the Owner's Lot. The pet owner shall immediately remove and properly dispose of any pet litter deposited on any portion of the Properties.

8.16. Parking and Storage of Vehicles. No vehicle shall be parked within the Properties except on a paved driveway or within a garage; parking on the roads or grass is prohibited. Vans and pick-up trucks may be parked on driveways, provided that, the following shall be considered commercial vehicles which may not be kept on the Properties: vehicles with over two (2) axles, vehicles with a fifth wheel intended for the towing of trailers, or vehicles with a height of over ten (10) feet, including without limitation, semi-tractor trailers, tow trucks, moving vans, furniture vans, or any vehicle or truck that displays any signage, tools or equipment that is of a commercial nature, or any vehicle or truck that is primarily designed to be used for commercial purposes regardless of how it is being used by the owner of the vehicle. For the purpose of this Section, the term "kept" shall mean present for a period of twenty-four (24) hours. Boats, boat trailers, campers, travel trailers, mobile homes, recreational vehicles, motor homes and the like, any vehicles not in operable condition and validly licensed, and any trailers used for the purpose of towing vehicles, commercial vehicles, commercial equipment, landscaping equipment and the like, shall only be permitted to be kept within the Properties, in excess of twenty-four (24) hours, if such are kept inside a garage and concealed from public view. An officer of the Association may grant temporary variances from the restrictions in this Section.

None of the foregoing restrictions shall apply to commercial vehicles, pick-up trucks or other vehicles which may be utilized by Developer, any Builder, their contractors and subcontractors.

8.17. Antennae and Flagpoles. Antennas and satellite dishes are prohibited, except that (a) antennas or satellite dishes designed to receive direct broadcast satellite service which are one (1) meter

or less in diameter (b) antennas or satellite dishes designed to receive video programming services via multi-point distribution services which are one (1) meter or less in diameter; or (c) antennas or satellite dishes designed to receive television broadcast signals, ("Reception Device") shall be permitted, provided that the Reception Device is located so as not to be visible from outside the Lot, or is located on the side or rear yard of the Lot. The Association or Architectural Reviewer may require that a Reception Device be painted or screened by landscaping in order to blend into the Lot and to the maximum extent feasible, removed from view from the street and other Lots. A flagpole shall not be used as an antenna. The installation and display of flagpoles and flags shall be subject to regulation by the Association or Architectural Reviewer, but no Owner shall be prevented from displaying a portable, removable United States flag or official flag of the State of Florida in a respectful manner, a portable, removable US Army, Navy, Air Force, Marine Corps or Coast Guard flag not larger than 4.5' x 6'. Notwithstanding the foregoing, no one shall be permitted to display the United States flag in a manner that violates: (i) Federal law or any rule or custom as to the proper display or use of the United States flag; or (ii) any reasonable restriction pertaining to the time, place and manner of displaying the flag. The restriction must be necessary to protect a substantial interest of the Association.

8.18. Radio Equipment. No ham radio, CB base station, or other radio, cable or electronic transmission equipment of any nature visible from the exterior of any portion of the Properties shall be permitted within the Properties unless approved by the Architectural Reviewer or Board.

8.19. Utilities; Solar Collectors.

(A) All utilities provided to the Properties will be by means of underground transmission lines, cables and pipes. No overhead transmission lines or cables will be permitted within the Properties except to the extent they are or have been installed pursuant to rights pre-existing this Declaration.

(B) Any fuel or power source which requires outside storage tanks of any kind must be approved in writing by the Declarant, Board or the Architectural Reviewer prior to installation. Any such installation will also require appropriate screening (as approved by the Declarant, Board or the Architectural Reviewer) to conceal the storage tanks.

(C) All solar heating apparatus must conform to the standards set forth in the HUD intermediate Minimum Property Standards Supplement, Solar Heating, and Domestic Water Systems. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed unless it is an integral and harmonious part of the architectural design of a structure, as reasonably determined by the Association or Architectural Reviewer. The Association or the Architectural Reviewer may dictate the location of any solar collectors within a plan solar system so long as it does not unreasonably impair the effector operation of such collector; accordingly, no solar collectors may be placed on the front facing portion of a roof. This provision is not intended to prohibit the use of solar energy devices.

8.20. Lawn Equipment. Playground equipment and other lawn equipment, including, but not limited to grills, swings, merry-go-rounds, tents, play pens, sandboxes and toys, may be located only in the rear yard of the respective Owner's Lot, within the side setbacks.

9. ENFORCEMENT OF COVENANTS AND ABATEMENT OF VIOLATIONS. Every Owner and the Owner's tenants, guests and invitees as well as the Association are governed by and shall at all times comply with all the covenants, conditions, restrictions and other provisions of the Governing

Documents. Violations of the Governing Documents should be reported immediately in writing to a member of the Board. Before undertaking any remedial, disciplinary or enforcement action against a person alleged to be in violation, the Association shall give the alleged violator reasonable written notice of the alleged violation, except in emergencies. Disagreements concerning violations, including, without limitation, disagreements regarding the interpretation and effect of the Governing Documents, shall be presented to and determined by the Board, whose interpretation of the Governing Documents and/or whose remedial action shall control. If any person, firm or entity subject to the Governing Documents fails to abide by them, as they are interpreted by the Board of Directors of the Association, that person shall be liable to be fined by the Association for each such failure to comply or other violation as more particularly set forth in Section 9.3 below.

9.1. Legal Action.

(A) Actions at law or in equity, or both, to redress an alleged failure or refusal to comply with the Governing Documents or Chapter 720, Florida Statutes, may be brought by the Association or by any Member against: (i) the Association, including without limitation, for the Association's failure to properly maintain the Common Areas as provided herein; (ii) a Member; (iii) any director or officer of the Association who willfully and knowingly fails to comply with the foregoing; and (iv) any tenants, guests or invitees using the Common Areas. The prevailing party in any such litigation is entitled to recover attorney's fees and costs, including appellate fees and costs. This subsection (A) does not deprive any person or entity of any other available right or remedy and is in addition to, and not in lieu of, any other provision of the Governing Documents regarding the enforcement of the Governing Documents.

(B) Judicial enforcement of the covenants and restrictions of this Declaration may be by an action at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, or against the land to enforce any lien created by these covenants. Failure of the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. If such action is instituted, the Association shall, in addition, be entitled to recover its costs and attorney's fees incurred if it is the prevailing party.

9.2. Entry by Association. Violation of any conditions or restrictions, or the breach of any covenant herein contained or contained in any of the Governing Documents shall also give the Declarant, its successors and assigns, and/or the Association and its authorized agent or representative, in addition to all other remedies, the right to enter upon the Lot or other area where such violation or breach exists and summarily abate and remove, at the expense of the Owner of the land, any construction or other violation that may be or exist thereon. The Declarant, its successors and assigns and/or the Association and its authorized agents shall not thereby become liable in any manner for trespass, abatement or removal.

9.3. Fines; Suspension of Right to Use Common Areas. The Association may, in addition to all other rights and remedies set forth herein or in the other Governing Documents, suspend, for a reasonable period of time, the rights of an Owner or his tenants, guests or invitees, or both, to use Common Areas (other than roadways) and may levy a fine against an Owner or his tenants, guests or invitees, for violation by the Owner or his tenants, guests or invitees of any covenant, restriction, rule or regulation contained herein or in the other Governing Documents or promulgated pursuant to the Governing Documents. The fine shall not exceed \$100 per day, up to \$2,000 for a continuing violation. A fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for a

hearing. The determination as to whether a violation is continuing in nature, will be made by the Board, subject to the fining committee's approval.

(A) Notice. The Association shall notify, in writing, the Owner of the nature of the alleged violation or violations and the proposed penalties. Included in the notice shall be the date and time of a hearing, at which time the Owner shall have the right to present reasons why penalties should not be imposed. The notice shall be given to the Owner at least fourteen (14) days prior to the hearing.

(B) Hearing. The facts of the alleged violations shall be presented to a committee appointed by the Board ("Hearing Committee") after which the Owner shall have a reasonable opportunity to present his defenses and reasons why penalties should not be imposed. The Hearing Committee, by majority vote, shall approve or disapprove the proposed penalty at the hearing. The Hearing Committee must have at least three (3) members (each of whom must be Members) and no members of the Hearing Committee may be an officer, director or employee of the Association or the spouse, parent, child, brother or sister of such an officer, director or employee. If the Hearing Committee, by majority vote, does not approve the proposed penalty, it may not be imposed.

(C) The requirements of (A) and (B) do not apply to the imposition of fines or suspension of use rights in the Common Areas upon a Member because of failure of the Member to pay annual or special assessments or Individual Lot Assessments.

(D) Fines imposed against a Member or his tenants, guests or invitees shall be deemed an Individual Lot Assessment against the Member's Lot.

9.4. Suspension of Voting Rights. The Board may suspend the voting rights of a Member for the non-payment of regular annual assessments that are delinquent in excess of ninety (90) days in accordance with Florida Statutes.

9.5. Enforcement by Owners and Beneficiaries. Each Owner and other beneficiaries of the dedicated Property and corresponding infrastructure shall have the legal right to enforce the maintenance covenants contained in the Declaration against the entity responsible therefore.

10. DEVELOPER'S RIGHTS AND DUTIES. Notwithstanding any other provisions to the contrary contained in this Declaration:

10.1. Use by Developer. Until the Developer has completed all of the contemplated improvements and has sold all of the Lots in the Properties, neither the Owners nor the Association, nor their use of the Lots, shall unreasonably interfere with the completion of the contemplated improvements or sales of Lots. The Developer may make any use of their respective unsold Lots and other areas of the Properties as may reasonably be expected to facilitate completion of improvements and Lot sales, including, but not limited to, maintenance of construction and sales offices, display of signs, leasing, and showing portions of the Properties and/or Lots for sale to prospective purchasers.

10.2. Assignment of Developer's/Declarant's Rights. All or any portion of the rights, privileges, powers and duties of the Developer set forth in the Governing Documents may be assigned by the Developer to any persons or entities, without the consent of any other Owner or any holder of a mortgage secured by any Lot, provided such assignment must be in writing and recorded in the Public Records of Brevard County. Upon the recording of such assignment, the assignor shall be relieved of all liabilities and responsibilities to the extent of the assignment.

10.3. Amendment of Declaration. In addition to any other right of amendment or modification provided for in this Declaration and its recorded exhibits, subject to the Act, the Developer may, until the Turnover Date, amend or modify any provision of this Declaration or the Governing Documents or grant exceptions or variances from any of the provisions of this Declaration and/or the other Governing Documents, without the approval of or liability to Owners of other Lots, or any person or entity, whether private or governmental, provided, however, that no amendment which materially affects the rights or interests of a Builder may be made by the Developer without such Builder's written consent.

10.4. Scrivener's Errors. This Declaration and all exhibits hereto, where applicable, may be amended unilaterally by the Developer for the purpose of correcting scrivener's errors.

10.5. Sales or Leases of Lots. The Developer shall have the right to sell, lease or transfer any Lot owned by it on such terms and conditions as it deems in its own best interest.

11. CONTROL OF ASSOCIATION.

11.1. Control Generally; Turnover. Notwithstanding anything else set forth in the Governing Documents, the Declarant has the right to elect all of the members of the Board of Directors until three (3) months after ninety percent (90%) of all Lots have been conveyed to Members other than the Declarant ("Turnover Date"). From and after the Turnover Date, Members other than the Declarant shall be entitled to elect at least a majority of the members of the Board of Directors. The Declarant, however, shall be entitled to elect at least one (1) Member of the Board of Directors as long as the Declarant holds for sale in the ordinary course of business at least five percent (5%) of the Lots in the Project. At or prior to the Turnover Date, all directors appointed by the Declarant (except for one (1), to the extent the preceding sentence is applicable) shall resign and an election for new directors shall occur at a meeting of the Members (the "Turnover Meeting").

11.2. Procedure for Calling Turnover Meeting. No more than forty-five (45) days and no less than thirty (30) days prior to the Turnover Meeting, the Association shall notify all Owners, in writing, of the date, time and place of the Turnover Meeting.

11.3. Voting After Turnover. After the Declarant relinquishes control of the Association, and commencing with the Turnover Meeting, the Declarant may exercise the right to vote its Voting Interest in the same manner as any other Member except for the purposes of reacquiring control of the Association or selecting the majority of the members of the Board of Directors; provided, that the Declarant shall retain the right to elect at least one (1) member of the Board to the extent provided in Section 11.1 above. The Declarant shall also retain all rights held by it as "Declarant" (rather than as a Member) under the Governing Documents.

11.4. Early Turnover. The Developer may turn over control of the Association to Owners other than the Developer prior to the Turnover Date set forth above by causing all of its appointed Directors to resign, whereupon it shall be the affirmative obligation of Owners other than the Developer to elect Directors and assume control of the Association. In such case, Declarant shall have the voting rights set forth in Section 11.3 above. Provided at least thirty (30) days' notice of Developer's decision to cause its appointees to resign is given to Owners, neither the Developer, nor such appointees, shall be liable in any manner in connection with such resignations, even if Owners other than the Developer refuse or fail to assume control.

11.5. Conveyance of Common Areas. At or prior to the Turnover Meeting, the Declarant shall, by quit-claim deed, convey any and all Common Areas to the Association, to the extent Declarant has not previously taken such action.

11.6. Agreements Prior to Turnover. Any grant or reservation made by any document, and any contract with a term in excess of ten (10) years made by the Association prior to the Turnover Meeting which provided for the operation, maintenance or management of the Association or Common Areas must be fair and reasonable.

12. DURATION OF COVENANTS; AMENDMENT OF DECLARATION.

12.1. Duration of Covenants. The covenants, conditions and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and be enforceable by the Association, the Developer and any Owner, and their respective legal representatives, heirs, successors and assigns, for 99 years. In the event of termination, the dedicated property and corresponding infrastructure will be conveyed or dedicated to a similar non-profit organization or entity to assure continued maintenance and operation. *NOTE: This section will not cause the Declaration to be preserved from extinguishment under the Florida Marketable Records Title Act ("MRTA"), unless MRTA is amended from time to time to provide as such. Accordingly, as required by Section 720.3032 of the Act, at the first Board meeting, excluding the organizational meeting, which follows the annual meeting of the Members, the Board shall consider the desirability of filing notices to preserve the covenants or restrictions affecting the community or association from extinguishment under the MRTA, and to authorize and direct the appropriate officer to file notice.*

12.2. Proposal. Notwithstanding the foregoing, this Declaration may be amended from time to time by a vote of the Members. Amendments to this Declaration may be proposed by the Board of Directors or by written petition signed by ten percent (10%) of the Voting Interests. The proposed amendments must be submitted to a vote of the Members not later than the next annual meeting.

12.3. Vote Required. Except as otherwise provided by law, or by specific provision of the Governing Documents, this Declaration may be amended by concurrence of at least sixty percent (60%) of the Voting Interests present and voting at any annual or special meeting called for that purpose, provided that notice of each proposed amendment has been given to the Members in accordance with law. No amendment shall change any Lot or Owner's share of liability for assessments or any Owner's voting rights, unless the Owner consents to the amendment. So long as the Declarant owns any Lot, no amendment shall be effective unless the Declarant consents to the amendment unless otherwise provided by law.

12.4. Amendment; Recording. The amendment of this Declaration shall be effective when the amendment is recorded in the Public Records of Brevard County, Florida. The amendment shall be signed by the President of the Association.

12.5. Amendment Provisions Relating to Developer. As long as the Developer holds any Lot for sale in the ordinary course of business, no amendment shall have the effect of changing any provision relating specifically to the Developer without the Developer's written consent. In addition, and notwithstanding anything else to the contrary set forth in this Declaration, the Developer has an unrestricted right to amend this Declaration until the Turnover Date, provided, however, that no amendment which materially affects the rights or interests of a Builder may be made by the Developer without such Builder's written consent. Subject to the foregoing sentence, any amendment hereto by the Developer need be signed only by the Developer and shall be recorded in the Public Records of Brevard County, Florida.

12.6. Surface Water Management System. Notwithstanding anything to the contrary, any amendment to this Declaration that alters the Surface Water Management System, beyond maintenance in its original condition, including without limitation mitigation or preservation areas and the water management portions of the Common Areas, dedicated lake tracts, lake maintenance or drainage easements and corresponding infrastructure, must have the prior approval of the applicable governing entity, such as the St. John's River Water Management District or the Florida Department of Environmental Protection.

12.7. NO REPRESENTATIONS OR WARRANTIES. NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, HAVE BEEN GIVEN OR MADE BY DECLARANT OR ITS AGENTS OR EMPLOYEES IN CONNECTION WITH ANY PORTION OF THE COMMON AREAS, ITS PHYSICAL CONDITION, ZONING, COMPLIANCE WITH APPLICABLE LAWS OR FITNESS FOR INTENDED USE, OR IN CONNECTION WITH THE SUBDIVISION, SALE, OPERATION, MAINTENANCE, COST OF MAINTENANCE, TAXES OR REGULATION THEREOF, EXCEPT AS SPECIFICALLY AND EXPRESSLY SET FORTH IN THESE PROTECTIVE COVENANTS.

13. GENERAL PROVISIONS.

13.1. Waiver. Any waiver by Developer of any provisions of this Declaration or of any breach hereof must be in writing and shall not operate or be construed as a waiver of any other provision or subsequent breach.

13.2. Severability. If any section, subsection, sentence, clause, phrase or portion of this Declaration is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portion thereof.

13.3. Headings and Capitalization. The headings of Sections herein, and the capitalization of certain words are for convenience only, and shall not affect the meanings or interpretation of the contents hereof.

13.4. Notices. Any notice required to be sent to any Owner under the provisions of this Declaration or the other Governing Documents, shall be deemed to have been properly sent when mailed, postage pre-paid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing. The Owner bears the responsibility for notifying the Association of any change of address.

13.5. Interpretation and Use of Pronouns. The Board of Directors is responsible for interpreting the provisions of this Declaration and its exhibits. Such interpretation shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by legal counsel that an interpretation adopted by the Board is not unreasonable shall conclusively establish the validity of such interpretation. Whenever herein the singular number is used, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders.

13.6. Attorney's Fees and Costs. In the event of any litigation or arbitration between the Developer, Association and/or any Member or Owner, the prevailing party shall have the right to recover from the non-prevailing party all reasonably attorney's fees and costs incurred by the prevailing party, including appellate fees and costs. Any amounts so owed to the Association shall be deemed secured by a lien on the Owner's or Member's Lot.

13.7. Directors and Officers Insurance. The Association is specifically empowered and authorized to obtain such fidelity bonds respecting its officers and directors and such reasonable officer's and director's liability insurance as the Board shall approve. The cost of all such insurance shall be deemed an Association expense and reimbursable by assessments established and imposed in accordance with the Governing Documents.

IN WITNESS WHEREOF, the Declarant does hereby execute this Declaration of Covenants, Conditions and Restrictions this ____ day of _____, 2022.

Witnesses:

HOLIDAY BUILDERS, INC., a Florida corporation

Print Name: _____

By: _____
Richard A. Fadil, CFO/EVP

Print Name: _____

STATE OF FLORIDA)
) §:
COUNTY OF BREVARD)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by means of ☐ physical presence OR ☐ online notarization by Richard A. Fadil, as CFO/EVP of HOLIDAY BUILDERS, INC., a Florida corporation, on behalf of said entity, who is personally known to me.

[NOTARY STAMP / SEAL]

Notary Public, State of Florida
Print Name: _____

Commission No Expiration Date

EXHIBIT “A”

Legal Description of the Properties

**MORTGAGEE CONSENT TO
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR RICHMOND COVE**

The undersigned _____, a(n) _____
("Mortgagee"), the owner and holder of that certain Mortgage Modification, Spreader, Consolidation and
Restatement Agreement recorded O. R. Book _____, Page _____, and as subsequently modified, including
but not limited to by that certain Spreader and Mortgage Modification Agreement recorded in O.R. Book
_____, Page _____, each in the Public Records of Brevard County, Florida, which encumbers the
Properties described on Exhibit "A" to the Declaration of Covenants, Conditions, and Restrictions for
Richmond Cove (the "Declaration"), hereby consents to the filing of the Declaration.

This Consent shall be binding upon the Mortgagee and its successors and assigns.

IN WITNESS WHEREOF, the Mortgagee has made and executed this Consent this _____ day of
_____, 2021.

Witnesses:

MORTGAGEE:

Print Name: _____

By: _____

Print Name: _____

Title: _____

Print Name: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2021 by means
of ☐ physical presence OR ☐ online notarization by _____ as
_____ of _____, on behalf of said entity, who [_____] is personally known
to me OR who [_____] has produced _____ (type of ID) as
identification.

NOTARY RUBBER STAMP SEAL
OR EMBOSSED SEAL

Notary Public, State of _____
Print Name: _____

Commission No

Expiration Date

RESTATED AND AMENDED ARTICLES OF INCORPORATION
OF
RICHMOND COVE HOMEOWNERS' ASSOCIATION, INC.

For the purpose of operating a not for profit corporation under the Florida Not For Profit Corporation Act, the Articles of Incorporation of the above-stated entity were filed with the Secretary of State of Florida on December 1, 2021, document number N21000013619. Pursuant to Section 617.02011, Florida Statutes, the following Amended and Restated Articles of Incorporation are hereby adopted:

ARTICLE I

NAME: The name of the corporation is Richmond Cove Homeowners' Association, Inc., (hereinafter called the "Association") and the street address of the initial principal office of the association is 2293 West Eau Gallie Boulevard, Melbourne, Florida 32935. The principal office may be changed from time to time by the Board of Directors.

ARTICLE II

DEFINITIONS: The definitions set forth in the "Declaration" (as hereinafter defined), Chapter 617, Florida Statutes, Florida Not For Profit Corporation Act, and Chapter 720, Florida Statutes, the Homeowners Associations Act (the "Act").

ARTICLE III

PURPOSE AND POWERS: The purpose for which the Association is organized is to provide an entity pursuant to the Florida Not For Profit Corporation Act for the operation of Richmond Cove (the "Subdivision" or the "Properties") located in the City of Palm Bay, Florida. The Association is organized and shall exist on a non-stock basis as a corporation not for profit under the laws of the State of Florida, and no portion of any earnings of the Association shall be distributed or inure to the private benefit of any Member, Director or officer. For the accomplishment of its purposes, the Association shall have all of the common law and statutory powers and duties of a corporation not for profit and of a homeowners' association under the laws of the State of Florida, except as expressly limited or modified by these Articles, the Declaration of Covenants (the "Declaration"), Bylaws, any Rules and Regulations, and any Architectural Planning Criteria (these Articles, the Declaration, Bylaws, any Rules and Regulations, and any Architectural Planning Criteria shall be collectively referred to herein as the "Governing Documents"); and it shall have all of the powers and duties reasonably necessary to operate the Community pursuant to the Governing Documents and any architectural review guidelines, as they may hereafter be amended, including but not limited to the following:

A. To levy and collect adequate assessments against members of the Association for the costs of maintenance and operation of the Surface Water Management System and to use such assessments for the maintenance and repair of the Surface Water Management System and mitigation or preservation areas, including but not limited to work within retention areas, drainage structures and drainage easements.

B. To operate, maintain and manage the Surface Water Management System in a manner consistent with the requirements of Agency Permit No. _____ and rules of the applicable governing entity, such as the St. John's River Water Management District or the Florida Department of Environmental Protection, and to assist in the enforcement of the restrictions and covenants contained herein.

- C. To purchase insurance for the protection of the Association and its Members.
- D. To repair and reconstruct improvements after casualty, and to make further improvements of the Common Areas and Association property.
- E. To make, amend and enforce reasonable rules and regulations as set forth in the Declaration.
- F. To enforce the provisions of the laws of the State of Florida that are applicable to the Community, and the Governing Documents.
- G. To contract for the operation, management and maintenance of the Subdivision, the Association property and all Common Areas (including, without limitation, tracts, easements and the Surface Water Management System) and any corresponding infrastructure, and to delegate any powers and duties of the Association in connection therewith except such as are specifically required by law or by the Declaration to be exercised by the Board of Directors or the membership of the Association.
- H. To employ accountants, attorneys, architects, and other professional personnel to perform the services required for proper operation of the Subdivision.
- I. To borrow money as necessary to perform its other functions hereunder and to pledge personal property of the Association in accordance therewith.
- J. To grant, modify or move any easement.
- K. To sue and to be sued.
- L. To own, acquire and convey property, and to grant and acquire easements subject to any limitations contained in the Declaration.

All funds and the title to all property acquired by the Association shall be held for the benefit of the Members in accordance with the provisions of the Governing Documents.

ARTICLE IV

MEMBERSHIP:

- A. The Members of the Association shall be the record Owners of a fee simple interest in one or more Parcels.
- B. The share of a Member in the funds and assets of the Association cannot be assigned or transferred in any manner except as an appurtenance to his Parcel.
- C. The Owners of each Parcel, collectively, shall be entitled to one vote in Association matters. The manner of exercising voting rights shall be as set forth in the Bylaws.

ARTICLE V

TERM: Existence of the Association shall commence with the filing of these Articles of Incorporation with the Secretary of State, Tallahassee, Florida. The Association shall exist in perpetuity.

ARTICLE VI

BYLAWS: The Bylaws of the Association may be altered, amended, or rescinded in the manner provided therein.

ARTICLE VII

DIRECTORS AND OFFICERS:

A. The affairs of the Association shall be administered by a Board of Directors consisting of the number of Directors determined by the Bylaws, but not less than three (3) Directors, and in the absence of such determination shall consist of three (3) Directors.

B. Directors of the Association shall initially be appointed by and shall serve at the pleasure of the Developer, and at and following the Turnover Date shall be elected by the Members in the manner determined by the Bylaws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Bylaws.

C. The business of the Association shall be conducted by the officers designated in the Bylaws. The officers shall be elected each year by the Board of Directors at its first meeting after the annual meeting of the Members of the Association, and they shall serve at the pleasure of the Board.

The initial Directors are as follows:

Steve Hogg
James Hill
Renee Jenkins

The initial Officers are as follows:

Steve Hogg - President
James Hill - Vice President
Renee Jenkins - Secretary/Treasurer

ARTICLE VIII

AMENDMENTS: Amendments to these Articles shall be proposed and adopted in the following manner:

A. **Proposal.** Amendments to these Articles may be proposed by a majority of the Board or by a written petition to the Board, signed by at least fifty (50%) percent of the Voting Interests of the Association.

B. **Procedure.** Upon any amendment to these Articles being proposed by said Board or Members, such proposed amendment shall be submitted to a vote of the Members not later than the next annual meeting for which proper notice can be given.

C. **Vote Required.** Prior to transition of control of the Board of Directors from the Developer, amendments shall be adopted by the Board of Directors. Subsequent to transition of control of the Board of Directors, a proposed amendment shall be adopted if it is approved by at least a majority of the Voting

Interests in the Association who are present and voting, in person or by proxy, at any annual or special meeting called for the purpose.

D. Effective Date. An amendment shall become effective upon filing with the Secretary of State and recording a Certificate of Amendment in the Public Records of Brevard County, Florida, with the formalities required for the execution of a deed.

ARTICLE IX

INDEMNIFICATION: To the fullest extent permitted by Florida law, the Association shall indemnify and hold harmless every Director and every officer of the Association against all expenses and liabilities, including attorney fees, actually and reasonably incurred by or imposed on him in connection with any legal proceeding (or settlement or appeal of such proceeding) to which he may be a party because of his being or having been a Director or officer of the Association. The foregoing right of indemnification shall not be available if a judgment or other final adjudication establishes that his actions or omissions to act were material to the cause adjudicated and involved:

A. Willful misconduct or a conscious disregard for the best interests of the Association, in a proceeding by or in the right of the Association to procure a judgment in its favor.

B. A violation of criminal law, unless the Director or officer had no reasonable cause to believe his action was unlawful or had reasonable cause to believe his action was lawful.

C. A transaction from which the Director or officer derived an improper personal benefit.

In the event of a settlement, the right to indemnification shall not apply unless the Board of Directors approves such settlement as being in the best interest of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which a Director or officer may be entitled.

ARTICLE X

In the event of termination, dissolution or final liquidation of the Association, the responsibility for the operation and maintenance of the Surface Water Management System must be transferred to and accepted by an entity which complies with Rule 62-330.310, F.A.C., and Applicant's Handbook Volume I, Section 12.3, and be approved by the applicable governing entity, such as the St. John's River Water Management District or the Florida Department of Environmental Protection, prior to such termination, dissolution or liquidation.

ARTICLE XI

INCORPORATOR: The name and address of the Incorporator is as follows:

Sean M. Ellis, Esquire
Roetzel & Andress LPA
2320 First Street, Suite 1000
Fort Myers, FL 33901

ARTICLE XII

REGISTERED OFFICE AND REGISTERED AGENT: The name and address of the Registered Agent and the address of the Registered Office is:

CT Corporation System
1200 South Pine Island Road
Plantation, FL 33324

IN WITNESS WHEREOF, the undersigned, for the purpose of forming a Corporation to do business with the State of Florida, under the law of Florida, makes and files these Articles of Incorporation, hereby declares and certifies the facts herein stated are true and hereunto set my hand this _____ day of _____, 20____.

INCORPORATOR:

Sean M. Ellis

ACCEPTANCE OF REGISTERED AGENT

The undersigned, being the initial registered agent, hereby accepts the appointment as the Registered Agent for the Corporation.

CT CORPORATION SYSTEM

By: _____
Print Name: _____
Title: _____

BYLAWS
OF
RICHMOND COVE HOMEOWNERS' ASSOCIATION, INC.

1. **GENERAL:** These are the Bylaws of Richmond Cove Homeowners' Association, Inc., hereinafter the "Association", a corporation not for profit organized under the laws of Florida for the purpose of operating Richmond Cove (the "Subdivision") pursuant to Chapter 617, Florida Statutes, the Florida Not For Profit Corporation Act, and Chapter 720, Florida Statutes, the Homeowners Associations Act as amended from time to time (the "Act").

1.1 **Principal Office.** The initial principal office of the Association is 2293 West Eau Gallie Boulevard, Melbourne, Florida 32935.

1.2 **Seal.** The seal of the Association shall be inscribed with the name of the Association, the year of its organization, and the words "Florida" and "not for profit." The seal may be used by causing it, or a facsimile of it, to be impressed, affixed, reproduced or otherwise placed upon any document or writing of the corporation where a seal may be required.

1.3 **Definitions.** Unless clearly indicated otherwise, the definitions set forth in the Declaration of Covenants (the "Declaration") and the Act shall apply to terms used in these Bylaws.

2. **MEMBERS:**

2.1 **Qualifications.** The Members of the Association shall be the record Owners of legal title to the Parcels in the Subdivision (except as expressly stated to the contrary herein, the terms "Parcels" and "Lots" shall be utilized interchangeably). In the case of a Parcel subject to an agreement for deed, the purchaser in possession shall be deemed the Owner of the Parcel for purposes of determining voting and use rights. Membership shall become effective upon the recording in the Public Records of a Deed or other instrument evidencing legal title to the Parcel in the Member.

2.2 **Voting Interest.** The Members of the Association are entitled to one (1) vote for each Parcel owned by them. If a Parcel is owned by one natural person, his right to vote shall be established by the record title to the Parcel. If a Parcel is owned jointly by two (2) or more natural persons, that Parcel's vote may be cast by any one of the record Owners. If two (2) or more Owners of a Parcel do not agree among themselves how their one vote shall be cast, that vote shall not be counted for any purpose. If the Owner of a Parcel is a corporation, partnership, limited liability company, trust or other entity other than a natural person, the vote of that Parcel shall be cast by any officer, director, partner, manager, or trustee, as the case may be.

2.3 **Approval or Disapproval of Matters.** Whenever the decision or approval of the Owner of a Parcel is required upon any matter, whether or not the subject of an Association meeting, such decision or approval may be expressed by any person authorized to cast the vote of such Parcel at an Association meeting as stated in Section 2.2 above, unless the joinder of all record Owners is specifically required.

2.4 **Change of Membership.** A change of membership in the Association shall be established by the new Member's membership becoming effective as provided in 2.1 above. At that time, the membership of the prior Owner shall be terminated automatically.

2.5 Termination of Membership. The termination of membership in the Association does not relieve or release any former Member from liability or obligation incurred under or in any way connected with the Subdivision during the period of his membership, nor does it impair any rights or remedies which the Association may have against any former Owner or Member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto.

3. MEMBERS' MEETINGS: VOTING:

3.1 Annual Meeting. There shall be an annual meeting of the Members in each calendar year. The annual meeting shall be held in Brevard County, Florida, each year at a day, place and time designated by the Board of Directors, for the purpose of transacting any business duly authorized to be transacted by the Members.

3.2 Special Members' Meetings. Special Members' meetings shall be held whenever called by the President or by a majority of the Directors, and may also be called by Members having at least thirty-three percent (33%) of the Voting Interests. The business at any special meeting shall be limited to the items specified in the notice of meeting.

3.3 Notice of Meetings; Waiver of Notice. Notice of all Members' meetings must state the time, date, and place of the meeting, and include an agenda for the meeting. The notice of meeting must be mailed to each Member at the address which appears on the books of the Association, or may be furnished by personal delivery. The Member is responsible for providing the Association with notice of any change of address. The Notice of Meeting must be mailed or delivered at least fourteen (14) days before the meeting. An affidavit of the officer or other person making such mailing shall be retained in the Association records as proof of mailing. Attendance at any meeting by a Member constitutes waiver of notice by that member unless the Member objects to the lack of notice at the beginning of the meeting. A Member may waive notice of any meeting at any time, but only by written waiver.

3.4 Quorum. A quorum at meetings of the Members shall be attained by the presence, either in person or by proxy, of Members entitled to cast at least one-third (1/3rd) of the votes of the entire membership. After a quorum has been established at a Members' meeting, the subsequent withdrawal of any voting Members, so as to reduce the number of Voting Interests represented below the number required for a quorum, shall not affect the validity of any action taken at the meeting before or after such persons leave.

3.5 Vote Required. The acts approved by a majority of the votes cast in person or by proxy at a duly-called meeting of the Members at which a quorum has been attained shall be binding upon all Members for all purposes, except where a greater or different number of votes is expressly required by law or by any provision of the governing documents.

3.6 Proxy Voting. To the extent lawful, any Member entitled to attend and vote at a Members meeting may establish his presence and cast his vote by proxy. A proxy shall be valid only for the specific meeting for which originally given and any lawful adjournment of that meeting, and no proxy is valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at the pleasure of the person executing it. To be valid, a proxy must be in writing, dated, signed by the person authorized to cast the votes, specify the date, time and place of the meeting for which it is given, and the original must be delivered to the Secretary by the appointed time of the meeting or adjournment thereof. Holders of proxies need not be Members. No proxy shall be valid if it names more than one person as the holder of the proxy, but the holder shall have the right, if the proxy so provides, to substitute another person to hold the proxy.

3.7 Adjourned Meetings. Any duly called meeting of the Members may be adjourned to be reconvened at a specific later time by vote of the majority of the Voting Interests present in person or by proxy, regardless of whether a quorum has been attained. When a meeting is adjourned it shall be necessary to give notice to all Members of the time and place of its continuance regardless of whether such are announced at the meeting being adjourned. Any business which might have been conducted at the meeting as originally scheduled may instead be conducted at the continuance, provided a quorum is then present, in person or by proxy.

3.8 Order of Business. The order of business at Members' meetings shall be substantially as follows:

Call of the roll or determination of quorum.

Reading or disposal of minutes of last Members meeting

Reports of Officers

Reports of Committees

Unfinished Business

New Business

Adjournment

3.9 Minutes. Minutes of all meetings of Members and of the Board of Directors shall be kept in a businesslike manner and available for inspection by Members or their authorized representatives and Board Members at reasonable times. Minutes must be maintained in written form or in another form that can be converted into written form within a reasonable time. A vote or abstention from voting on each matter voted upon for each director present at a board meeting must be recorded in the minutes.

4. BOARD OF DIRECTORS: The administration of the affairs of the Association shall be by a Board of Directors. All powers and duties granted to the Association by law, as modified and explained in the Declaration, Articles of Incorporation, and these Bylaws, shall be exercised by the Board, subject to approval or consent of the Parcel Owners only when such is specifically required.

4.1 Number and Terms of Service. The number of Directors which shall constitute the whole Board of Directors shall be three (3). The initial Directors shall be appointed by and shall serve at the pleasure of the Developer. At the Turnover Meeting, and subsequently, Directors shall be elected in accordance with Florida law. All Directors elected by the Members shall serve one (1) year terms. A Director's term will end at the annual election at which his successor is to be duly elected, unless he sooner resigns, or is recalled as provided in 4.4 below.

4.2 Qualifications. Prior to Turnover, Directors need not be Members. After Turnover, Directors must be Members. If a Lot is owned by a corporation, partnership or trust, any officer, director, partner, trustee, or trust beneficiary occupying the Lot, as the case may be, shall be eligible to be a Director.

4.3 Vacancies on the Board. If the office of any Director becomes vacant for any reason, other than recall by the membership at a membership meeting, a majority of the remaining Directors, even if the remaining Directors constitute less than a quorum or the sole remaining Director, shall promptly choose a successor to serve the remaining unexpired term except that vacancies of all Directors appointed by the

Developer shall likewise be filled by the Developer. In the alternative, the Board may hold an election to fill the vacancy for the remaining unexpired term in accordance with the election requirements of the Bylaws. If the Association fails to fill vacancies on the Board sufficient to constitute a quorum, or if no Member remains on the Board, the vacancy may be filled by the Members (via a special meeting of the membership) or any other manner provided by Florida law.

4.4 Removal of Directors. Except for Directors appointed by the Developer, any or all Directors may be removed with or without cause by a majority vote of the entire membership, either by a written petition, or at any meeting called for that purpose, in the manner required by Florida law.

4.5 Organizational Meeting. The organizational meeting of a new Board of Directors shall be held within ten (10) days after the election. The organizational meeting may be held immediately following the election, in which case noticing of the meeting may be effectuated by the Board existing prior to the election.

4.5.1. First Meeting After Organizational Meeting: Consideration of Preservation from Extinguishment under MRTA. So long as is required by Section 720.303(2)(e), F.S., as amended from time to time, at the first board meeting, excluding the organizational meeting, which follows the annual meeting of the members, the board shall consider the desirability of filing notices to preserve the covenants or restrictions affecting the community or association from extinguishment under the Marketable Record Title Act ("MRTA"), chapter 712, F.S., and to authorize and direct the appropriate officer to file notice in accordance with s. 720.3032, F.S.

4.6 Other Meetings. Meetings of the Board may be held at such time and place in Brevard County, Florida, as shall be determined from time to time by the President or a majority of the Directors. Notice of meetings shall be given to each Director, personally or by mail, telephone or electronic mail at least forty-eight (48) hours prior to the day named for such meeting.

4.7 Notice to Owners. A meeting of the Board of Directors occurs whenever a quorum of the Board gathers to conduct Association business. All meetings of the Board of Directors shall be open to Members except for meetings with the Board and its attorney with respect to proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney-client privilege. Notices of all Board meetings shall be posted conspicuously in the Subdivision for at least forty-eight (48) continuous hours in advance of each Board meeting, except in an emergency. In the event of an emergency meeting, any action taken shall be noticed and ratified at the next regular meeting of the Board. In the alternative to the posting requirements discussed above, notice of each Board meeting must be mailed or delivered to each Member at least seven (7) days before the meeting, except in an emergency. An assessment may not be levied at a Board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of the assessments.

4.8 Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice. If all Directors are present at a meeting, no notice to Directors shall be required.

4.9 Quorum of Directors. A quorum at a Board meeting shall exist when at least a majority of all Directors are present at a duly called meeting. Directors may participate in any meeting of the Board, by a conference telephone call or similar communicative arrangement whereby all persons present can hear all other persons. Participation by such means shall be deemed equivalent to presence in person at a meeting.

4.10 Vote Required. The acts approved by a majority of those Directors present and voting at a meeting at which a quorum exists shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is required by the governing documents or by applicable statutes. Directors may not vote by proxy or by secret ballot at Board meetings, except that secret ballots may be used in the election of officers.

4.11 Adjourned Meetings. The majority of the Directors present at any meeting of the Board, regardless of whether a quorum exists, may adjourn the meeting to be reconvened at a specific time and date.

4.12 The Presiding Officer. The President of the Association, or in his absence, the Vice-President, shall be the presiding officer at all meetings of the Board of Directors. If neither is present, the presiding officer shall be selected by majority vote of the Directors present.

4.13 Compensation of Directors and Officers. Neither Directors nor officers shall receive compensation for their services as such. Directors and officers may be reimbursed for all actual and proper out-of-pocket expenses relating to the proper discharge of their respective duties.

4.14 Committees. The Board of Directors may appoint from time to time such standing or temporary committees as the Board deem necessary and convenient for the efficient and effective operation of the Association. Any such committee shall have the powers and duties assigned to it in the resolution creating the committee. If required by law, committee meetings shall be open to attendance by any Lot Owner, and notice of committee meetings shall be posted in the same manner as required in Section 4.7 above for Board meetings.

5. OFFICERS:

5.1 Officers and Elections. The executive officers of the Association shall be a President, and a Vice-President, who must be Directors, a Treasurer, and a Secretary, all of whom shall be elected annually by the Board of Directors. Any officer may be removed with or without cause by vote of a majority of all Directors at any meeting. Any person may hold two or more offices. The Board may, from time to time, appoint such other officers, and designate their powers and duties, as the Board shall find to be required to manage the affairs of the Association. If the Board so determines, there may be more than one Vice-President.

5.2 President. The President shall be the chief executive officer of the Association; he shall preside at all meetings of the Members and Directors, shall be ex-officio a Member of all standing committees, shall have general and active management of the business of the Association, and shall see that all orders and resolutions of the Board are carried into effect. He shall execute bonds, mortgages and other contracts requiring seal of the Association, except where such are permitted by law to be otherwise signed and executed, and the power to execute is delegated by the Board of Directors to some other officer or agent of the Association.

5.3 Vice-Presidents. The Vice-Presidents in the order of their seniority shall, in the absence or disability of the President, perform the duties and exercise the powers of the President; and they shall perform such other duties as the Board of Directors shall assign.

5.4 Secretary. The Secretary shall attend all meetings of the Board of Directors and all meetings of the Members and shall cause all votes and the minutes of all proceedings to be recorded in a book or books to be kept for the purpose, and shall perform like duties for the standing committees when required. He shall give, or cause to be given, notice of all meetings of the Members and of the Board of

Directors, and shall perform such other duties as may be prescribed by the Board or the President. He shall keep in safe custody the seal of the Association and, when authorized by the Board, affix the same to any instrument requiring it. The Secretary shall be responsible for the proper recording of all duly adopted amendments to the governing documents. Any of the foregoing duties may be performed by an Assistant Secretary, who may be designated by the Board in the Secretary's absence, or the Association's manager/management company.

5.5 Treasurer. The Treasurer shall be responsible for Association funds and securities, the keeping of full and accurate amounts of receipts and disbursements in books belonging to the Association, and the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors. He shall oversee the disbursement of the funds of the Association, keeping proper vouchers for such disbursements, and shall render to the President and Directors, at the meetings of the Board, or whenever they may require it, an accounting of all transactions and of the financial condition of the Association. Any of the foregoing duties may be performed by an Assistant Treasurer, if any has been designated.

6. FISCAL MATTERS: The provisions for fiscal management of the Association set forth in the Declaration shall be supplemented by the following provisions:

6.1 Depository. The Association shall maintain its funds in such financial institutions authorized to do business in the State of Florida as shall be designated from time to time by the Board. Withdrawal of monies from such accounts shall be only by such persons as are authorized by the Board.

6.2 Budget. The Board of Directors shall adopt a budget of common expenses for each fiscal year. A copy of the proposed budget and a notice stating the time, date and place of the meeting of the Board at which the budget will be adopted shall be mailed to each Member not less than fourteen (14) days prior to that meeting. The proposed budget shall reflect the estimated revenues and expenses for that year by categories, as well as the estimated surplus or deficit as of the end of the current year. The budget must set out separately all fees or charges for recreational amenities, whether owned by the Association, the Developer, or another person, if any.

6.3 Reserves for Capital Expenditures and Deferred Maintenance. In addition to annual operating expenses, the proposed budget may include reserve accounts for capital expenditures and deferred maintenance. The Developer has not initially created statutory reserves as provided for in Section 720.303, Florida Statutes. If the Members at any time vote to provide for reserves in accordance with Section 720.303, Florida Statutes, then thereafter reserves shall be funded and used in accordance with such statutory provisions.

6.4 Assessments. Regular annual assessments based on the adopted budget shall be paid quarterly, or annually if determined by the Board. Failure to send or receive notice of assessments shall not excuse the obligation to pay. If an annual budget has not been adopted at the time the first installment for a fiscal year is due, it shall be presumed that the amount of such installment is the same as the last installment and shall be continued at such rate until a budget is adopted and pro rata assessments are calculated, at which time any overage or shortage shall be added or subtracted from each Lot's next due installment.

6.5 Special Assessments. Special assessments may be imposed by the Board of Directors when necessary to meet unusual, unexpected, unbudgeted, or non-recurring expenses. Special assessments are due on the day specified in the resolution of the Board approving such assessments.

6.6 Fidelity Bonds. The Treasurer, and all other officers who are authorized to sign checks, and all other persons having access to or control of Association funds, shall be bonded in such amounts as may be required by law or otherwise determined by the Board of Directors. The premiums on such bonds shall be a common expense.

6.7 Financial Reporting. Within ninety (90) days following the end of the fiscal year, the Board of Directors shall mail or furnish by personal delivery to each Member a financial report for the previous twelve (12) months or a written notice that a copy of the financial report is available upon request at no charge to the Member. The financial report shall consist of financial statements presented in conformity with generally accepted accounting principles; or a financial report of actual receipts and expenditures, cash basis, which report shows the amount of receipts and expenditures by classification and the beginning and ending cash balances of the Association.

6.8 Fiscal Year. The fiscal year shall be the calendar year, unless modified by the Board of Directors.

7. RULES AND REGULATIONS: USE RESTRICTIONS: The Board of Directors may, from time to time, adopt and amend rules and regulations governing the Common Areas, Lots, Leases, procedures, and Association governance, and other reasonable rules and regulations subject to any limits contained in the Declaration. Copies of such rules and regulations shall be furnished to each Parcel Owner. Any rule or regulation created and imposed by the Board must be reasonably related to the promotion of health, happiness and peace of mind of the Parcel Owners and uniformly applied and enforced.

8. COMPLIANCE AND DEFAULT: REMEDIES: In addition to the remedies provided elsewhere in the Governing Documents, the following provisions shall apply:

8.1 Obligations of Members; Remedies At Law Or In Equity; Levy of Fines and Suspension of Use Rights.

Each Member and the Member's tenants, Guests and invitees, are governed by, and must comply with Chapter 720, Florida Statutes, and the Governing Documents. Actions at law or in equity, or both, to redress alleged failure or refusal to comply with these provisions may be brought by the Association or by any Member against:

The Association;

A Member; and

Any tenants, Guests, or invitees occupying a Parcel or using the Common Areas.

The prevailing party in any such litigation is entitled to recover reasonable attorney's fees and costs. This section does not deprive any person of any other available right or remedy.

The Association may suspend, for a reasonable period of time, the rights of a Member or of a Member's, tenants, Guests or invitees to use Common Areas and facilities, and may levy reasonable fines against Owners, in those cases in which Owners commit violations of the Act governing homeowners' associations, the provisions of the governing documents or Association rules and regulations, or condone such violations by their family members, tenants, Guests, or invitees. The fines shall be in an amount deemed necessary by the Board to deter future violations, but in no event shall any fine exceed the maximum amounts allowed by the Declaration. A fine may be levied on the basis of each day of a

continuing violation, with a single notice. The procedure for suspending use rights and imposing such fines shall be as follows:

A fine or suspension may not be imposed without notice of at least fourteen (14) days to the person sought to be fined or suspended and opportunity for hearing before a committee of at least three (3) Members appointed by the Board who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother, sister of an officer, director or employee, and the notice shall include:

A statement of the date, time and place of the hearing;

A statement of the provisions of Florida law, the Declaration, Bylaws or rules which have allegedly been violated; and,

A short and plain statement of the matters asserted by the Association; and,

The party against whom the fine may be levied shall have a reasonable opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved, and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association. The Owner shall be the party ultimately responsible for payment of a fine, regardless of whether the fine relates to conduct by a tenant, family member, invitee or Guest.

If the Committee, by majority vote, does not approve the fine or suspension, it may not be imposed.

Fines that remain unpaid, in whole or in part, after thirty (30) days from the date due shall be secured by a lien against the Parcel of the Owner responsible for payment of the fine. The lien shall be foreclosed in the same manner as a lien for assessments as provided elsewhere in the governing documents.

The Association may suspend Common Area use rights and levy fines because of the failure of the Member to pay assessments or other charges when due in the manner set forth above, except that the Board of Directors may do so without the need for involvement of a Committee of Members other than the Board.

Suspension of Common Area use rights shall not impair the right of an Owner or tenant of a Parcel to have vehicular and pedestrian ingress to and egress from the Parcel, including, but not limited to, the right to park.

The Association may suspend the voting rights of a Member but only for the nonpayment of regular annual assessments that are delinquent in excess of ninety (90) days.

8.2 Availability of Remedies. Each Member, for himself, his heirs, successors and assigns, agrees to the foregoing provisions relating to default and abatement of violations regardless of the harshness of the remedy utilized by the Association and regardless of the availability of other legal remedies. It is the intent of all Members to give the Association methods and procedures which will enable it to operate on a businesslike basis, to collect those monies due it and to preserve the majority's right to enjoy the community free from unreasonable restraint and annoyance.

9. AMENDMENT OF BYLAWS: Amendments to these Bylaws shall be proposed and adopted in the following manner:

9.1 Proposal. Amendments to these Bylaws may be proposed by the Board of Directors or by written petition to the Board signed by the Owners of at least one-fourth (1/4) of the Parcels.

9.2 Procedure. Upon any amendment or amendments to these Bylaws being proposed by said Board or Parcel Owners, such proposed amendment or amendments shall be submitted to a vote of the Owners not later than the next annual meeting for which proper notice can still be given.

9.3 Vote Required. Prior to turnover of control of the Board of Directors from the Developer of the Subdivision, amendments shall be adopted by the Board of Directors. Subsequent to turnover of control of the Board of Directors from the Developer, a proposed amendment to these Bylaws shall be adopted if it is approved by at least a majority of the Voting Interests present and voting in person or by proxy at any annual or special meeting called for the purpose, provided that notice of the proposed amendment has been given to the Members in accordance with law. As long as Developer owns a Parcel no amendment shall be effective if it affects Developer's rights or alters a provision herein made for Developer's benefit.

9.4 Certificate; Recording. A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Bylaws, which certificate shall be in the form required by law and shall be executed by the President or Vice-President with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of Brevard County, Florida.

10. MISCELLANEOUS:

10.1 Gender. Whenever the masculine or singular form of a pronoun is used in these Bylaws, it shall be construed to mean the masculine, feminine or neuter; singular or plural, as the context requires.

10.2 Severability. Should any portion hereof be void or become unenforceable, the remaining provisions of the instrument shall remain in full force and effect.

10.3 Conflict. If any irreconcilable conflict should exist, or hereafter arise, with respect to the interpretation of these Bylaws and the Declaration or Articles of Incorporation, the provisions of the Declaration or Articles of Incorporation shall prevail over the provisions of these Bylaws, and the Declaration shall prevail over the Articles.

10.4 Virtual Meetings. To the extent not prohibited by law, and notwithstanding any provision of these Bylaws or the Act that specifically references Member attendance, the Association may hold meetings of the Members, the Board of Directors, and those committee whose meetings must be called and held in the same manner as a meeting of the Board of Directors virtually, only allowing for remote attendance and participation, regardless of whether an emergency, as defined in these Bylaws, exists. The decision whether to hold any particular meeting virtually shall rest solely with the Board. Participating by such virtual means shall constitute presence of a person at a meeting.