

**HOMES OF RD**

**COVENANTS**

**1-13-2000**

# DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS OF HOMES OF RIVIERA DUNES

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**DECLARATION OF COVENANTS, CONDITIONS,  
EASEMENTS AND RESTRICTIONS OF  
HOMES OF RIVIERA DUNES**

This Declaration of Covenants, Conditions, Easements and Restrictions for Homes of Riviera Dunes is made this 13<sup>th</sup> day of January 2000, by W.C. Riviera Partners, L.C., a Florida limited liability company (the "Declarant"), and joined by FIRST DARTMOUTH HOMES, a Florida general partnership ("First Dartmouth").

**WITNESSETH**

WHEREAS, Declarant is developing a planned, residential community and commercial development around a man-made lake that, subject to permitting, is planned to be a harbor opening onto the Manatee River, all located in the City of Palmetto, Manatee County, Florida, which overall project is known as "Riviera Dunes;" and

WHEREAS, Declarant is developing a planned, residential community located within Riviera Dunes, to be known as Homes of Riviera Dunes ("Project"); and

WHEREAS, the Project is to be divided into neighborhoods, of which the Property (as defined below) is one; and

**WHEREAS**, Riviera Dunes will be a planned, multi-staged "Development of Regional Impact" (as that term is defined in Chapter 380, *Florida Statutes*), which, together with the Project, is to be developed initially in accordance with a development order issued by the City of Palmetto, Florida, ("**Development Order**") pursuant to Chapter 380; and

WHEREAS, Declarant has caused the Homes of Riviera Dunes Homeowners' Association, Inc., a Florida corporation not-for-profit, to be formed to fulfill certain powers and duties of operation, administration, maintenance, and repair and the collection and disbursement of the expenses for the Project.

NOW, THEREFORE, Declarant and First Dartmouth declare that the Property shall be owned, used, sold, conveyed, encumbered, demised and occupied subject to the provisions of this Declaration, which shall run with the land and be binding on all parties having any right, title or interest in or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

## ARTICLE I

### DEFINITIONS

The following words, when used in this Declaration (unless the context shall prohibit), shall have the following meanings:

**1.01 ARCHITECTURAL REVIEW BOARD or ARB** shall mean and refer to the Architectural Review Board described in **Article VII**.

**1.02 ARCHITECTURAL REVIEW** shall mean and refer to the requirements of the Declaration that certain improvements or alterations to Lots and existing improvements be reviewed and approved, and where the context indicates, the review and approval procedures of **Article VII**.

**1.03 ARCHITECTURAL STANDARDS** shall mean the standards established from time to time by the Board of Directors for the control of the design and location of all Structures and other work within the Project.

**1.04 ARTICLES** shall mean and refer to the Articles of Incorporation of the Association, a copy of which are attached to this Declaration as **Exhibit "B."**

**1.05 ASSESSMENT** shall mean any Assessment made by the Homes of Riviera Dunes Homeowners' Association, Inc. in accordance with this Declaration.

(A) **REGULAR ASSESSMENT** shall mean the recurring periodic Assessment for each Owner's share of the budgeted common expense.

(B) **SERVICE ASSESSMENT** shall mean a charge against a particular Owner and his Lot for any service, material or combination thereof which may be obtained by the Association for the use and benefit of such Owner or his Lot as provided herein.

(C) **SPECIAL ASSESSMENT** shall mean a charge against a particular Owner and his Lot, directly attributable to the Owner or the Lot, to reimburse the Association for costs in bringing the Owner or his Lot into compliance with the provisions of this Declaration, the Articles, By-Laws or Association rules, for amounts advanced by the Association in accordance with this Declaration on behalf of the Owner or his Lot or any other charge designated as a Special Assessment in this Declaration, the Articles or By-Laws.

**(D) SUPPLEMENTAL ASSESSMENT** shall mean assessments in addition to the Regular Assessments necessary to pay common expenses, including without limitation, amounts covering nonrecurring items of common expense, or amounts necessary to supplement Regular Assessments in order to defray common expenses of the budget.

**(E) CLUB HOME MAINTENANCE ASSESSMENT** shall mean the recurring periodic Assessment to Club Home Lot Owners for each Club Home Lot Owner's share of the budgeted expense for landscaping and maintenance of Club Home Lots. Each Club Home Lot Owner shall be responsible for the payment of the Club Home Maintenance Assessment in addition to any other Assessments that may be charged to Owners as described in this Article I, Section 1.05.

**1.06 ASSOCIATION DOCUMENTS** shall mean, collectively, the Declaration of Covenants, Conditions, Easements and Restrictions of Homes of Riviera Dunes, and the Articles of Incorporation, By-laws, and rules and regulations of the Homes of **Riviera Dunes Homeowners' Association, Inc.**, as they may be amended from time to time.

**1.07 ASSOCIATION PROPERTY** shall mean and refer to **all** real property and interests therein owned or granted to the Association, including easements, licenses and servitudes, together with improvements located thereon or therein. The term Association Property shall **also** include any personal property acquired by the Association if said property is designated for the improvement, maintenance, repair or replacement of the Association Property. All Association Property is to be devoted to and intended for the common use and enjoyment of the Owners and residents of the Project and their guests, subject to the provisions of this Declaration. Association Property shall include, but not be limited to, private roads within the Project, the **entryway** into the Project off Haben Boulevard, clubhouse and related amenities, Neighborhood Docks and Multiple Use Docks and parking areas associated therewith.

**1.08 BOARD or BOARD OF DIRECTORS** shall mean the Board of Directors of the Homes of Riviera Dunes Homeowners' Association, Inc.

**1.09 BUDGET** shall mean the Budget adopted by the Board, as more **fully** described in **Article XII** herein.

**1.10 BUILDER** shall mean a developer or builder of an area of the Project, which entity has been approved by Declarant.

**1.11 BY-LAWS** shall mean and refer to the By-Laws of the Association.

**1.12 CITY** shall mean the City of Palmetto, Florida.

**1.13 CLUB HOME LOT** shall mean a Lot located within an area designed as a maintenance free community and set forth as Club Home Lots in a supplemental declaration filed by Declarant.

**1.14 CLUB HOME MAINTENANCE ASSESSMENT** shall be as described in Article I, Section 1.05(E).

**1.15 CODE** shall mean the City of Palmetto, Florida, Code of Ordinances, as amended from time to time.

**1.16 COMMON AREAS** shall mean the land use classification assigned to that portion of the lands of the Project owned by, or the use of which has been granted to, the Homeowners' Association as set forth in this Declaration, the Master Declaration, or on any recorded Plat. Common Areas include, but are not limited to, the areas defined in Article VI.

**1.17 COMMON EXPENSES** shall mean and refer to the actual and estimated cost of the following:

(A) The maintenance, management, operation, repair and replacement of the Association Property, and all other areas of the Project which are required by this Declaration to be maintained by the Association.

(B) Obligations incurred by the Association in excess of revenues because assessments had not been paid.

(C) Maintenance of any landscaping, irrigation, lighting and **signage** located within the Association Property, and drainage ponds, drainage facilities and drainage easements or ditches adjoining or running through the Project as may be provided in this Declaration or as determined by the Board.

(D) Expenses of **administration** and management of the Association.

(E) The cost of any insurance covering the Association Property or obtained by the Association.

(F) Reasonable reserves as deemed appropriate by the Board.

(G) Any amount paid by the Association for the discharge of any lien or encumbrance levied against the Association Property or portions thereof.

(H) All real estate taxes, assessments, personal property taxes or governmental levies or charges of any **kind** which are assessed or imposed upon the Association Property and all utility charges, including deposits, incurred in connection with the Association Property or the carrying out or other Association obligations hereunder, specifically including but not necessarily **limited** to electrical service charges to maintain **signage** lighting within the Project.

(I) The cost of any other item or items designated herein as a Common Expense, or

reasonably or necessarily incurred by the Association in connection with the Association Property, the Declaration, the Articles or By-Laws and in furtherance of the purposes of the Association or a discharge of any obligations expressly or impliedly imposed on the Association by this Declaration.

**1.18 DECLARATION** shall mean this document as amended from time to time.

**1.19 DECLARANT** and/or **DEVELOPER** shall mean W.C. RIVIERA PARTNERS, L.C., a Florida limited liability company, its successors or assigns of any or all of its rights under this Declaration as specified by Declarant.

**1.20 "DEP"** means Florida Department of Environmental Protection.

**1.21 DEVELOPMENT ORDER** shall mean the Development of Regional Impact development order issued, or to be issued, pursuant to Chapter 380.06, *Florida Statutes*, as amended from time to time. Prior to issuance, the term shall be deemed to include the PDA.

**1.22 DWELLING UNIT** shall mean any residential unit intended as an abode for one (1) family, constructed on a portion of the lands of the Project and given a certificate of occupancy by the applicable governmental entity.

**1.23 ESTATE HOME LOT** shall mean any Lot within an area of single family detached residential units that is not a Club Home Lot and which is identified as an Estate Home Lot by supplemental declaration filed by Declarant.

**1.24 HARBOR** shall mean that portion of Riviera Dunes that as of the date of the filing of this Declaration consists of the man-made lake that is planned, subject to permitting, to be opened to the Manatee River.

**1.25 HARBORFRONT LOTS** shall mean Lots with frontage on the Harbor.

**1.26 HOMEOWNERS' ASSOCIATION** or **ASSOCIATION** shall mean Homes of Riviera Dunes Homeowners' Association, Inc., a Florida corporation not-for-profit, its successors or assigns. The Homeowners' Association is NOT a condominium association.

**1.27 HOMEOWNERS' EXPENSES** shall mean the expenses for which Owners are liable to the Homeowners' Association as described in this Declaration and in any other of the Association Documents, and including, but are not limited to, the costs and expenses incurred by the Homeowners' Association in fulfilling its obligations under the Association Documents.

**1.28 LAKES** shall mean and refer to retention ponds, stormwater retention pond area(s) and mitigation pond area(s), but not the Harbor.

**1.29 LOT** shall mean and refer to residential Lots designated on any Plat.

**1.30 LOT OWNER or OWNER** shall mean and refer to the record fee simple title holder, whether one or more persons or entities, of a Lot in the Project.

**1.31 MASTER ASSOCIATION** shall mean and refer to the Riviera Dunes Master Association, Inc., a Florida corporation not-for-profit, its successors and assigns.

**1.32 MASTER DECLARATION** shall mean and refer to the Declaration of Covenants, Conditions, Easements and Restrictions for Riviera Dunes, recorded in O.R. Book 1616, Page 4557, Public Records of Manatee County, Florida.

**1.33 MEMBER** shall mean a Lot Owner or Developer as defined and set forth in **Article X, Paragraph 10.03**.

**1.34 PLAT** shall mean any plat or plats recorded within the Project.

**1.35 PROJECT** shall mean Homes of Riviera Dunes.

**1.36 PROPERTY** shall mean and refer to the real property described in **Exhibit "A"** attached hereto, together with such additional lands as are hereafter added by Developer in its sole discretion.

**1.37 REGULAR ASSESSMENT** shall be as described in **Article I, Section 1.05(A)**.

**1.38 RIVIERA DUNES** shall mean the overall development being developed by Declarant, which overall development includes the Project.

**1.39 SERVICE ASSESSMENT** shall be as described in **Article I, Section 1.05(B)**.

**1.40 SIGNS** shall mean all name, insignia, trademarks, and descriptive works or material of any kind affixed, inscribed, erected or maintained within the Project or on any improvement thereon.

**1.41 SPECIAL ASSESSMENT** shall be as described in **Article I, Section 1.05(C)**.

**1.42 STRUCTURE(S)** shall be deemed to include a Dwelling Unit, porch, veranda, garage, pool cage, lanai, screen enclosure, fence, wall, deck and any and all other improvements.

**1.43 SUPPLEMENTAL ASSESSMENT** shall be as described in **Article I, Section 1.05(D)**.

**1.44 SWFWMD** shall mean Southwest Florida Water Management District.

**ARTICLE II**

**PROPERTY SUBJECT TO THIS DECLARATION**

**2.01** The real property which is and shall be held, transferred, sold, conveyed and occupied subject to the provisions of this Declaration is the Property.

**2.02 ADDITIONS TO EXISTING PROPERTY.** Additional lands may become subject to this Declaration in the following manner: Without the consent of the Association or any Owner, the Declarant may, from time to time make subject to this Declaration additional property contiguous to or lying in proximity to the Property. Such additions shall be made by filing a Supplemental Declaration, which shall extend the operation and effect of this Declaration to the property described therein. Supplemental Declarations may contain complementary additions and modifications hereto as may be determined by Declarant, provided such additions and modifications are not substantially inconsistent with this Declaration.

**ARTICLE III**

**PLAN FOR DEVELOPMENT**

**3.01 GENERAL PLAN FOR DEVELOPMENT.** Declarant is the Developer of the Project and Riviera Dunes and presently plans to develop all as a multi-staged, planned, community in accordance with the Development Order. This Declaration covers only the Property (and additional lands as may be added by Declarant hereunder), however, all purchasers in the Project are on notice that various intense commercial uses are planned for Riviera Dunes. The commercial uses and other residential uses within Riviera Dunes will extend to the potential use of the Harbor for marinas, boating, an aquatic golf driving range, other uses as determined by the Declarant (or its successors and assigns) ~~from~~ time to time, and events held ~~from~~ time to time. Declarant retains sole and absolute discretion to add additional lands and to develop the Project and Riviera Dunes in **any** manner, style, sequence or configuration for which Declarant feels appropriate.

**ARTICLE IV**

**RESIDENTIAL BUILDING RESTRICTIONS AND OBLIGATIONS**

In order to establish and maintain an exclusive residential development of the highest **quality** for the maximum benefit and enjoyment of its residents, the following covenants, conditions, easements and restrictions shall constitute covenants running with the land and shall be binding upon and inure to the benefit of each Lot Owner lying and being in the Project.

**4.01 RESIDENTIAL LOTS.** All Lots in Homes of Riviera Dunes shall be known and **described** as residential Lots and shall be used solely for single-family residential purposes. No Structure shall

be erected, altered, placed or permitted to remain on any Lot other than one (1) detached single-family Dwelling Unit, which Dwelling Unit must have an attached enclosed garage for the specific purpose of serving at a minimum two (2) cars. The permitted Dwelling Unit shall be in a style, form and appearance which shall be harmonious with the architectural motif of the Project and shall be aesthetically complimentary thereto. No construction of any kind shall be permitted until the approval of the Architectural Review Board has been obtained in writing, as hereinafter provided. All construction must be performed and supervised by a general contractor licensed in the State of Florida and approved by the Developer.

Temporary uses by Declarant, its affiliates and Builders for model homes, sales displays, parking lots, sales offices and other offices, or any one or combination of such uses, shall be permitted until the permanent cessation of such uses takes place.

**4.02 REPETITION OF HOME AND LANDSCAPING PLANS.** Duplication of Residence Plans and landscaping designs and colors for Club Homes and Estate Homes shall be limited and approval of all proposed plans for homes and landscaping shall be approved by the Architectural Review Board in accordance with the limitations for duplication within the Project as follows:

(A) **Exterior House Paint.** The Developer or the Architectural Review Board will approve a limited number of exterior house paint colors and Owners shall only use those approved colors. Any exterior repainting shall be in the same color as originally approved by the Developer or the Architectural Review Board or a change shall be approved by the Architectural Review Board.

(B) **Paint Color of Adjacent Homes.** There shall be no more than two (2) adjacent Dwelling Units on the same side of a street, having the same color of approved exterior paint.

(C) **Residence Plans.** Each Owner shall maintain the front elevation of his residence as approved by the Developer or the Architectural Review Board.

(D) **Residence Plans of Adjacent Homes.** There shall be no more than three (3) adjacent Dwelling Units in the Club Home section or two (2) adjacent Dwelling Units in the Estate section, having the same Residence Plan. If two (2) adjacent homes are of an identical Residence Plan then one must have a different front elevation and exterior paint color in order to be approved, for this purpose, reversing the Residence Plan shall be considered a different front elevation.

(E) **Landscaping Plans.** Each pre-designed and approved Residence Plan shall have an approved Landscaping Plan as described in Article IV, Section 4.20 and there shall be no additional landscaping unless approved by the Developer or the Architectural Review Board.

**4.03 COMPLIANCE WITH GOVERNMENTAL REGULATIONS.** Any and all construction in the Project shall be in compliance with all applicable state and local governmental permits, regulations, requirements of the Development Order, including but not limited to, building codes,

zoning regulations, and setback requirements which may be in effect from time to time, and in accordance with this Declaration.

**4.04 CONSTRUCTION DATES AND REPURCHASE RIGHT.** Except as to Lots owned by the Developer, the Developer shall assume no responsibility for building residences in the Project. Developer shall maintain a list of general contractors who are approved to build **Dwelling Units**, pools and docks within the Project ("Approved General Contractor"). Each Owner shall hire and contract directly with an Approved General Contractor for the construction of the Owner's residence. As of the date of the filing of this Declaration, First Dartmouth Homes is the only Approved General Contractor.

(A) **Club Home Lots Construction Commencement and Completion Dates.** Upon conveyance of a Club Home Lot by the Developer or Builder to an Owner, each Owner of a Club Home Lot covenants and agrees to retain an Approved General Contractor and cause construction of a single-family residential dwelling to begin on the Lot within nine (9) months of conveyance and to cause such construction to be completed and a Certificate of Occupancy to be issued within nine (9) months from the date of commencement, or such date as reasonably extended by the Board due to circumstances beyond the control of the Owner. Notwithstanding the foregoing, Club Home Lot Owners who receive deeds subsequent to the time that Developer has sold ninety percent (90%) of all Club Home Lots shall commence construction within six (6) months of conveyance and shall complete construction and obtain a Certificate of Occupancy within nine (9) months of the commencement date, or such date as reasonably extended by the Board due to circumstances beyond the control of the Owner. The commencement dates set forth above shall not be extended and a subsequent conveyance by the **first** Owner shall not extend any such dates.

(B) **Estate Home Lots Construction Commencement and Completion Dates.** Upon conveyance of an Estate Home Lot by the Developer or Builder to an Owner, each Owner of an Estate Home Lot covenants and agrees to retain an Approved General Contractor and cause construction of a single-family residential dwelling to begin on the Lot within twelve (12) months of conveyance and to cause such construction to be completed and a Certificate of Occupancy to be issued within fourteen (14) months of the date of commencement or such date as reasonably extended by **the Board** due to circumstances beyond the control of the Owner. Notwithstanding the foregoing, Estate Home Lot Owners who receive deeds subsequent to the time that Developer has sold **ninety** percent (90%) of all Estate Home Lots shall commence construction within **nine** (9) months of conveyance and shall complete construction and obtain a Certificate of Occupancy within fourteen (14) months of the commencement date, or such date as reasonably extended by the Board due to circumstances beyond the control of the Owner. The commencement dates set forth above shall not be extended and a subsequent conveyance by the first Owner shall not extend any such dates.

(C) **Developer's Right to Repurchase.** Each Owner agrees, and the deeds to Owners shall provide, that if construction on the Lot shall not have been commenced within the requisite time period after the conveyance of a Lot, as set forth in this Article **IV**, Section **4.04 (A)** and **4.04 (B)**,

then Developer or any third party designated by the Developer, shall have the right to require the Owner to convey his Lot to Developer, or any third party designated by the Developer, for ninety percent (90%) of the purchase price paid by Owner for the Lot (hereinafter "Repurchase Right"). **The Developer** or designee shall exercise its Repurchase Right by giving written notice to Owner and, within thirty (30) days after such notice is given, Owner shall convey the Lot to Developer or designated third party by general warranty deed (subject to the same exceptions to title set forth in the deed into Owner, other than the acts and deeds of Owner). Upon Owner's delivery of the warranty deed Developer, or its third party purchaser, shall pay the Owner the repurchase price in **funds immediately available** in Manatee County, Florida. Real property taxes and assessments shall be prorated as of the date of such conveyance. If the title proposed to be conveyed is subject to any lien, encumbrance or other defect which is not permitted, Developer or its designated third party purchaser, in addition to all other rights and remedies which it may have at law or in equity, may remove any such lien, encumbrance or defect and deduct all costs and expenses incurred incident to such removal (**including** but not limited to attorneys' fees) from the amount of the purchase price otherwise payable as provided herein.

Upon the good faith commencement of construction on the Lot within the required time period as set forth above, the Repurchase Right shall terminate. For purposes of this Section, construction **shall** be deemed to have commenced only upon the Architect Review Board's approval of plans for a single family residential dwelling, the issuance of a building permit by the City, and the **pouring** of a foundation for the **construction** of a residential dwelling on the Lot. The deed to Owner shall provide that the Repurchase Right is subordinate to any first priority mortgage to secure debt securing a bona fide construction loan on the Lot.

**4.05 SETBACKS.** All Dwelling Units shall be erected according to all setback regulations described herein or in the Code which regulates construction on residential Lots, whichever is more restrictive. No Dwelling Unit, building or other Structure shall be erected or placed upon any part of a Lot such that any portion of said Dwelling Unit, building or Structure (including eaves or overhangs) encroaches on any easement denoted any Plat or on any easements reserved unto or granted by the Developer under the provisions of **this Declaration**. Notwithstanding any **of the** above, terraces, patios, low platforms or steps, decks, caged swimming pools and similar low, open and unroofed construction may be erected within the setback areas, provided that such construction: (1) does not encroach on any **of the** aforesaid easements; (2) in the opinion of the Architectural Review Board, does not interfere with the exposure or view or reasonable privacy of adjoining or facing properties; (3) is otherwise approved by the Architectural Review Board; and (4) does not **conflict** with the Code.

(A) **Front Yard Setback.** There shall be a **minimum** front yard setback of twenty feet (20') from the front lot line.

Comer lots are considered to have two (2) front yard setbacks. Certain Lots **have** more severe setbacks due to governmental and regulatory restrictions. Any governmental setbacks more stringent than those above will govern.

(B) **Side Yard Setback.** There shall be a minimum side yard setback of seven and ½ feet (7 ½') from the side lot lines, except for the Club Homes, which shall have a seven foot (7') side yard setback on one side and a three foot (3') side yard setback on the other side, as approved by the City.

(C) **Rear Yard Setback.** There shall be a minimum rear yard building setback from the rear Lot line of fifteen feet (15') for all Lots.

(D) **Conservation Easement Setback.** There shall be no construction in any Conservation Easement.

#### 4.06 **MINIMUM RESIDENTIAL FLOOR SPACE\SQUARE FOOTAGE.**

(A) **Club Home Lots.** No Dwelling Unit which has a livable floor space of less than 1,550 square feet, exclusive of open porches, terraces, lanais, garages or other like improvements, shall be constructed or maintained upon **any** Club Home Lot.

(B) **Estate Home Lots.** No Dwelling Unit which has a livable floor space of less than 2,500 square feet, exclusive of open porches, terraces, lanais, garages or other like improvements, **shall** be constructed or maintained upon any Estate Home Lot.

4.07 **GARAGE REQUIREMENTS.** Each Dwelling Unit must have a private, attached, **fully** enclosed garage for not less than two (2) cars, with an opening for not more than four single or two double garages and in keeping with the architectural style of the residential Dwelling Unit. All garage doors must be in keeping with the architectural style and materials used on the residential Dwelling Unit. Automatic garage door openers are required on all overhead garage doors. Except when in actual use, garage doors must be kept closed. Conversion of the garage to living area or other usage is expressly prohibited without the substitution of another garage which meets the requirements of this Section 4.07, and with the prior approval of the Architectural Review Board.

4.08 **DRIVEWAYS.** All Dwelling Units shall have a driveway **from** the street to the garage constructed of brick pavers, **which** driveway **shall** measure at minimum sixteen (16) feet in width at the entrance to the garage. Asphalt, blacktop, stained or painted concrete and epoxy bonded aggregate are prohibited.

4.09 **SIDEWALKS.** Prior to issuance of a Certificate of Occupancy for a Lot, sidewalks adjacent thereto shall be constructed in accordance with the Code.

4.10 **STREET LANDSCAPING.** Each Lot Owner shall be responsible for the installation **and** maintenance of residential street landscaping through the installation of landscaping in conformance with the Code and the Landscape Guidelines promulgated by **Declarant** and as amended from time to time by the Board.

4.11 **FENCES, HEDGES AND WALLS.** Walls and fencing can be an intrusion of the open

character of the Project community and may have both a visual and physical impact on adjoining Property. Therefore, hedges and landscaping to provide privacy are encouraged, and any fencing is discouraged, however privacy walls and decorative fences attached to the house as an integral part of the design scheme of the architectural exterior elevation of the residence will be considered. Any requested new installation of a fence, gate, wall, or hedge, or changes to an existing fence, gate, wall or hedge, must be approved by the Architectural Review Board prior to installation.

**(A)** Location. The location of all decorative fencing, walls and hedges, must be approved by the Architectural Review Board prior to installation. Decorative entry walls, entry gates, courtyard walls, and privacy walls surrounding and abutting pool decks are considered structures appurtenant to the residence and may be allowed within the building setback, with Architectural Review Board approval.

**(B)** Walls. Privacy screening walls around courtyards having a swimming pool in the center may have a **maximum** height of six (6) feet exclusive of pillars or ornaments, any and all other walls may not exceed an average height of four (4) feet exclusive of **pillars** or ornaments. The height of gate shall match the height of the approved wall to which the gate is attached. The walls shall be designed and constructed of material identical or compatible with the materials, colors, finishes, textures and architectural style of the Dwelling Unit and shall be approved by the Architectural Review Board prior to construction and installation. Landscaping must be provided along the outside of all walls to soften the visual impact of the wall.

**(C)** Fences. Decorative fencing, where permitted, shall be white aluminum or polyvinyl chloride (PVC), four feet (4') high, and have 3 ½ to 4 ½ inch-wide pickets and shall conform to the specifications approved by the Board. Visible fences in **front** or on the side of a residence or a vacant lot must be landscaped with Viburnum suspensum plantings or its approved equivalent. The landscape plantings must be set on **thirty** inch (30") centers and must be **thirty-six** inches (36") in height. Gates must match the fencing in design, material, height and color. Notwithstanding the above, fencing of Lot boundaries is prohibited.

**(D)** Compliance with **City Ordinances**. All fences, **walls** and hedges shall comply with all City ordinances regulating same. In the event that any **ordinance(s)** of the City conflicts with a provision contained herein for fences, walls or hedges, then the more restrictive provision shall apply.

**4.12 SWIMMING POOLS.** No swimming pools shall be constructed on any Lot, except as herein provided:

**(A)** All swimming pools shall be designed and constructed so that the deck and **surrounding** patio or walkway, if any, is at ground level. This provision is intended to prohibit the installation of any above-ground swimming pools on any Lot.

The Architectural Review Board shall have the power and the authority to allow for some deviation in this restriction in cases where existing conditions prohibit construction of such an

improvement at absolute ground level, but in no case shall it allow the construction of an above-ground swimming pool.

(B) All pool equipment must be concealed by landscaping and/or a privacy wall which shall not exceed four feet (4') in height when in the setback area. Screened cages around pool areas are recommended, however, no screening of pool areas may extend beyond a line extending from, and aligned with, the side walls of the Dwelling Unit unless specifically approved by the Architectural Review Board. All pool screen cages must be mansard style. No flat roofs or A-frame cages will be allowed.

(C) All pools shall be constructed to comply with applicable rules, regulations and standards of all governmental agencies having jurisdiction and shall be constructed by an Approved General Contractor. Any pools added after the original construction of the Dwelling Unit must be approved by the Architectural Review Board pursuant to Section 7.02. The Architectural Review Boards may require the posting of a substantial bond to protect neighboring properties or the Harbor shore from such construction.

**4.13 ROOFS.** Each roof shall be constructed with a minimum pitch of 6/12 and all roofing material shall be tile, cement tile or slate. No flat roofs nor roofs having a slope of less than 6/12 and no built-up roofs shall be permitted on the main portion of any building. Roofs over outdoor areas, porches or lanais shall be constructed of the same material as the roof of the Dwelling Unit. Screened roofs may be used over pools and lanais areas. All roof stacks, vents, flashing and chimney caps shall be painted to match the approved roof colors. Roof stacks and vents shall be placed on rear slopes of the roofs and shall not extend above the ridge line of the pitched roofs and shall not be visible from the street.

**4.14 GUTTERS AND DOWNSPOUTS.** Gutters and downspouts shall be painted to match the color of the surface to which they are attached. Stormwater flow must be directed to, and conform with, the approved stormwater drainage plan and requirements so as not to affect adjacent Property.

**4.15 UNDERGROUND WIRING.** No lines or wires for communication of the transmission of current or signals shall be constructed, placed or permitted to be placed upon any Lot unless the same shall be inside a building or underground or installed at the approval or direction of the Developer and as further described in Article IV, Section 4.17.

**4.16 SOLAR COLLECTORS.** Unless required by law or by Development Order stipulations, solar collectors shall be permitted only with the approval of the Architectural Review Board prior to installation thereof.

**4.17 ELECTRICAL AND MECHANICAL EQUIPMENT.** All electrical, electronic and mechanical equipment, including air conditioning compressors and condensers, swimming pool equipment, transformers and meters, and sprinkler controls shall be properly housed, within an enclosure constructed with the residence, or landscaped with a minimum coverage of eighty percent

(89%) upon installation, in a manner that will blend with the Dwelling Unit and site. No wall or window heating, ventilating and air conditioning units shall be permitted.

**4.18 MANDATORY IRRIGATION SYSTEM.** Each Lot shall be required to have an automated lawn irrigation system reflected on the plans and constructed as part of the original construction of improvements. The system will include rain sensors and automatic shutoff devices and shall provide for a timer mechanism, irrigation lines and sprinkler heads so as to provide for the capability of automated lawn irrigation of sufficient size and capacity to irrigate all sodded and landscaped areas. Once the system is installed as part of original construction of improvements to a Lot, it shall be the obligation of the Lot Owner to maintain and utilize the irrigation system to maintain the lawn and landscaped areas of the Lot in a properly irrigated manner in accordance with SWFWMD and City watering and irrigation guidelines and restrictions. A Lot Owner, at his or her expense, shall be responsible for connecting to the City reuse line when available.

If a Lot Owner fails to properly irrigate, the Homeowners' Association shall have the right, but not the obligation, to enter upon said Lot and irrigate the Lot and landscaping in accordance with this Article **IV**, Section **4.18** and charge the Lot Owner(s) in an amount equal to one hundred twenty percent (120%) of the cost incurred by the Association for such services. Every such entry on the part of the Homeowners' Association or its employees or agents shall be deemed to be a lawful entry and not a trespass. Irrigation systems shall, when possible and available, use non-potable and or recycled water.

Notwithstanding the foregoing provisions of this Article **IV**, Section 4.18, and only as to Club Home Lots, the Association will provide maintenance of the irrigation systems installed in the Club Home Lots. Maintenance shall include minor repairs or replacement necessitated by damages from normal landscape maintenance. The Club Home Lot Owners shall be responsible for the full cost of all other repair and replacement and the cost of same shall be charged to the Club Home Lot Owners through the Club Home Maintenance Assessment. Club Home Lot Owners shall ensure that the Developer, Association or their respective agents have access to the Owner's irrigation systems as is necessary for maintenance, repair and replacement of the irrigation systems.

**4.19 FRONT OF DWELLING.** The front of all Dwelling Units must face the street. On Corner Lots the Developer may designate the street upon which the Corner Lot Dwelling Unit will face or the angle to the intersection of the streets.

**4.20 LANDSCAPING.** Except as set forth in Article **IV**, Section **4.20** (B), professional landscape plans shall be submitted to the Architectural Review Board in accordance with the provisions set forth in Article **VII**, Section **7.02** herein for review and approval prior to the commencement of the landscape installation upon any Lot. The Architectural Review Board shall make available, upon request, a list of approved and prohibited trees and shrubs.

(A) All landscape plans shall provide:

1. Landscaping and planting along the front, sides and rear elevations of the Dwelling Unit, which landscaping shall conform to a list approved by the Board from time to time;
2. Landscaping and screening of all equipment, including pool equipment, heating, ventilating and air conditioning equipment and any other similar outdoor equipment as further described in Article IV, Section 4.11 and 4.16; and
3. The location for the placement of the street landscaping as required pursuant to Article IV, Section 4.10 herein.
4. Oak trees and other large shade trees shall be strictly prohibited in all back yards or side yards of all Harborfront Lots or Lots that are adjacent to the Manatee River or canal on the east side of the Project.
5. Any additional landscaping installed after occupancy of a Dwelling Unit requires the approval of the Architectural Review Board prior to installation.
6. Notwithstanding the foregoing, annuals consistent with the approved landscaping plan, may be installed or replaced by Owner without further Architectural Review Board approval.

**(B)** Club Home Lots. The Builder shall provide landscaping installation and ongoing landscape maintenance for the Club Home Lots as follows:

1. The Developer or Builder shall have pre-approved landscaping plans for each type of Dwelling Unit built on a Club Home Lot ("Landscape Package"). The Owner or Builder at Owner's cost will install this Landscape Package and the Association will provide maintenance of same as set forth in Article N, Section (B) 2 herein. The cost of the maintenance of the Landscape Package will be included in the Club Home Maintenance Assessment. A Club Home Lot Owner may upgrade the Landscape Package to an approved upgrade plan at an additional charge to Owner as determined by the Developer, Builder, or Association.
2. The Association shall provide landscaping services to the Club Home Lots, including maintenance of the original Landscape Package and any upgrades thereof, such services to include mowing, edging trimming, periodic fertilizer and treatment for pests and periodic application of mulch originally included in the Landscape Package. The Association will only replace any approved plantings included in the Owner's original Landscape Package and which need replacing due to maintenance failure, excluding any upgrades. Any plantings included in an upgrade or approved and installed by Owner subsequent to the installation of the original Landscape Package ("Excluded Plantings"), including but not limited to flowers, ground covers, trees and bushes, shall be installed at Owner's expense and any damage to or loss of such Excluded Plantings or other upgrades, and replacement thereof shall be exclusively Owner's expense.

3. Club Home Lot Owners shall pay a Club Home Maintenance Assessment for costs of regular landscaping services. The Association may assess a Club Home Maintenance Special Assessment against the individual Owner for landscaping maintenance and/or replacement costs incurred due to damage or loss of plantings from inclement weather, specifically excluding any damage to or loss to any upgrades or Excluded Plantings which shall be replaced at the Owner's sole expense. The Association may, but is not obligated to, have Reserve amounts for landscaping purposes, any such amount shall be used exclusively for Club Home Landscaping and for no other purpose.

4. If a Club Home Lot Owner is responsible for the replacement of dead or damaged plantings and does not replace same within a reasonable time, as determined by the Developer or Association, the Developer or Association may replace the plantings and assess a Club Home Maintenance Special Assessment against the individual Club Home Lot Owner for the cost of replacement, including installation.

(C) **Estate Home Lots.** The Owner of each Estate Home Lot shall provide landscaping installation and ongoing landscape maintenance as follows:

1. The Developer or the Association shall have a limited number of pre-approved landscaping plans for predesigned homes on Estate Lots, which an Owner may install. Any variation from such an approved landscaping plan shall be approved by the Architectural Review Board and shall have a retail cost of at least \$12,000.00 for all landscaping, which shall include the street landscaping, sod, and the irrigation system.

2. If an Estate Home Lot Owner does not replace dead or damaged plants within a reasonable time, as determined by the Developer or Association, the Developer or Association may replace the plantings and assess the Estate Home Lot Owner a Special Assessment against the individual Estate Home Lot Owner for the cost of replacement.

(D) All landscaping and sodding shall be completed prior to occupancy of the Dwelling Unit.

**4.21 SODDING.** That portion of the yard of all Lots not covered by the Dwelling Unit, patios, walkways and other approved landscaped areas shall be sodded with natural, specialized St. Augustine sod at the time of the original construction of improvements. No common varieties of Bahia grass shall be allowed. Gravel or stone yards shall not be permitted. All sodding shall be completed prior to occupancy of the Dwelling Unit.

**4.22 ARTIFICIAL VEGETATION AND EXTERIOR DECORATIONS.** No artificial grass, plants or other artificial vegetation shall be placed or maintained upon the exterior portion of any Lot. Exterior decorations, including without limitation, sculptures, fountains and similar items must be approved by the Architectural Review Board in accordance with **Article VII** of this **Declaration**.

**4.23 ANTENNAS, SATELLITE DISHES.** No exterior antennas, aerials, satellite dishes, or other similar radio or television receiving apparatus whatsoever shall be placed, maintained or constructed on any Lot, unless otherwise exempted by law. Notwithstanding the foregoing, an Owner may place one (1) television satellite receiving dish on his or her Lot, provided that it (i) shall have a diameter of not more than twenty-four inches; (ii) shall be reasonably screened from view from all adjoining properties (whether public or private) with landscaping or other appropriate material, as determined by the ARB; and (iii) if painting will not interfere with the receiving signal, dishes and posts shall be painted to match the color of the Dwelling Unit.

**4.24 HURRICANE AND STORM SHUTTERS.** Hurricane and Storm Shutters shall be permitted only with the approval of the Architectural Review Board prior to installation thereof. Hurricane and Storm Shutters shall be painted to match the color of the surface to which they are attached. Any installed Hurricane or Storm Shutter shall not be engaged except when the Owner has reason to believe that a hurricane or storm is imminent. Owner may engage his Hurricane or Storm Shutters within five (5) days prior to the date the hurricane or storm is expected to occur and shall remove the Hurricane or Storm Shutters within three (3) days after the danger of a hurricane or storm has abated. If an Owner is absent at the time of a threatened weather condition then the Owner may designate a firm or individual who will be responsible for the timely engagement and removal of Shutters. The Owner shall furnish the Association with the name(s), address and telephone number of the designated firm or individual.

**4.25 FLAGPOLES.** Any flagpole must be approved by the Architectural Review Board pursuant to the provisions of Section 7.02.

**4.26 TIME WARNER COMMUNICATIONS.** The Developer has entered into a master easement and right of entry agreement with Time Warner Communications dated December 1, 1999, which among other things, allows Time Warner to provided certain cable services for a period of fifteen (15) years in the Project. Payment of said services shall be the responsibility of each Owner, should Owner choose to utilize said services. The Homeowners Association may obtain bulk standard service upon a vote of approval of 60% of the Members.

## ARTICLE V

### GENERAL RESTRICTIVE AND PROTECTIVE COVENANTS

**5.01 COMMERCIAL VEHICLES.** Commercial vehicles shall not be allowed to remain on the streets within the Project, except when conducting business. If an Owner has a commercial vehicle, it must be garaged.

**5.02 GAMES AND ACCESSORY STRUCTURES.** Any fixed games and play Structures shall be located at the rear of the Dwelling Unit. One basketball backboard shall be allowed only on Lots with a driveway serving a side entry garage that is contiguous to a side Lot line. The backboard must be installed and located at either the rear of the driveway or at the side of the driveway immediately

opposite the garage. The backboard may not be located on the garage and may not be located within the front building setback set forth in Article IV, Section 4.03 herein. The backboard shall be constructed of clear plexiglass and shall be supported by a single steel painted post. Only white nets shall be allowed, which nets must be maintained in good repair at all times. The proposed location and construction materials of the backboard shall be submitted to the Architectural Review Board in accordance with the provisions set forth in Article VII, Section 7.02 herein for review and approval prior to installation.

**5.03 LAWFUL CONDUCT.** No unlawful or immoral use shall be made of any Lot or any part thereof, and no noxious or offensive trade or activity shall be carried on upon any Lot nor shall anything be done thereon which may become an annoyance or nuisance to the neighboring Lot or to the Project.

**5.04 MAILBOXES.** No mailbox of any kind shall be constructed or maintained on any Lot in the Project, except as hereinafter provided:

(A) For so long as the Developer is a Class B member of the Association, only those mailboxes which are approved by the Developer shall be used in the Project. Subsequent thereto, the Architectural Review Board shall approve the type, design and color of mailboxes which may be used in the Project. Until the Developer gives notice to the contrary, the Developer or Builder shall provide, at Owner's expense, a mailbox and post for each Lot, which may include a single post with double mailboxes per every two homes. Each mailbox shall be of a common design and color and shall be used throughout the Project. Each mailbox and post shall be installed at the request and expense of the individual Lot Owner and shall be located on the Lot at the location designated by the Developer, under the direction of the local governing postal delivery service, to insure uniformity throughout.

(B) Maintenance of the mailbox and post shall be provided by the Association to insure the continued acceptable appearance of the Project, however, replacement shall be at the cost of the Owner.

**5.05 MAINTENANCE OF IMPROVED LOTS AND LANDSCAPING.** No weeds, underbrush or other unsightly growth shall be permitted to grow or remain uncut or unmowed upon any Lot. All Lot Owners shall maintain their hedges, plants, lawns and shrubs in a neat and trim manicured condition at all times. The Owners of the Lots in the Project shall be responsible for the maintenance of all areas located: (a) between their respective Lot lines and the pavement of the street or streets adjacent to the Lot; and (b) between their respective Lot lines and the waters of any adjacent lakes, ponds, or other water bodies, and the banks of any canals or drainage ditches. In the event a Lot Owner(s) fails to maintain the Lot and landscaping as herein described, then the Homeowners' Association shall have the right, but not the obligation, to enter upon said Lot and maintain the Lot and landscaping in accordance with this Article V, Section 5.05 and charge the Lot Owner(s) in an amount equal to one hundred and twenty percent (120%) of the cost incurred by the Association for such services. Every such entry on the part of the Homeowners' Association or its

employees or agents shall be deemed to be a lawful entry and not a trespass.

**5.06 MAINTENANCE OF IMPROVEMENTS.** Lot Owners shall maintain their residences and all other improvements, including, without limitation, walls, decorative fencing, screen enclosures, driveways and accessory Structures, in good appearance and safe conditions, and the repair of any damage, deterioration or evidence of wear and tear on the exterior of any Dwelling Unit shall be made in a timely manner. In the event a Lot Owner fails to maintain the improvements as herein described, then the Homeowners' Association shall have the right, but not the obligation, to enter upon said Lot and maintain the improvements in accordance with this **Article V**, Section **5.06** and charge the Lot Owner(s) in an amount equal to one hundred and twenty percent (120%) of the cost incurred by the Association for such services. Every such entry on the part of the Homeowners' Association or its employees or agents shall be deemed to be a lawful entry and not a trespass.

**5.07 MAINTENANCE OF CLUB HOME LOTS.** The Association shall provide landscaping and repainting maintenance services to Club Home Lots to insure compliance with **Article V, Section 5.05 and 5.06** requirements. Such maintenance shall include exterior repainting of the Club Home Dwelling Units once every five (5) to seven (7) years at the discretion of the Association. Club Home Lot Owners will be assessed a Special Assessment for the expenses of such exterior repainting. To compensate the Association for this maintenance service, each Club Home Lot Owner will pay a Club Home Maintenance Assessment and shall pay such other Special Assessments as required by the Association. The Association may, but is not obligated to, maintain Reserves for maintenance, however, any such reserve may not be co-mingled with the amounts of any Club Home Reserve set aside for Landscaping purposes.

**5.08 MAINTENANCE OF UNIMPROVED LOTS.** In order to insure that unimproved Lots do not become overgrown with weeds and other vegetation, the Homeowners' Association may provide for the periodic mowing of all such Lots to the extent necessary to cure an unsightly condition and maintain the dedicated right-of-ways. To compensate the Homeowners' Association for this service, each Lot Owner of an unimproved Lot shall pay to the Homeowners' Association upon notice, a mowing fee. As used herein, "unimproved Lot" shall mean a Lot owned by a person or entity other than Developer or Builder on which no bona fide construction of a Dwelling Unit has been commenced. The assessment of a mowing fee, whether annually, quarterly or monthly will be determined by the Homeowners' Association. Any Lot Owner who pays such fee and subsequently commences construction prior to or during the period the fee amount is assessed, will be, upon request by Lot Owner, refunded the amount not used.

**5.09 MISCELLANEOUS VISUAL RESTRICTIONS.** No clothes lines or other exterior clothes drying apparatus shall be permitted, nor shall any clothes, sheets, blankets, towels or other Articles be hung over fences or otherwise exposed, except in such manner as may be approved by regulations of the Association. Garage doors shall be kept in a closed position when not in use for ingress and egress or when the Owner is not using the garage. Children's toys shall not be erected or left when not in use, in any front or side yard or where visible from any street. No outdoor burning of trash or refuse shall be permitted. Solar collectors or other energy devices based on

renewable resources shall, if possible, be installed and maintained so as not to be visible from the street fronting the Lot, however, no Owner shall be prohibited from installing solar collectors on any roof area with an orientation to the south or within forty-five degrees (45°) east or west of due south. The Association shall, at all times, comply with the provisions of Section 163.04, *Florida Statutes*, as amended from time to time, with regard to solar collectors and other energy devices based upon renewable resources. Wall or window air conditioners shall not be permitted to be installed in any Dwelling.

**5.10 MOBILE HOMES.** No trailer, mobile home, outbuilding or similar structure shall be placed or constructed on any Lot at any time, except as set forth in Article V, Section 5.20.

**5.11 MOTORCYCLES.** With the exception of street motorcycles that shall be used in the same manner as a car and driven only on roadways and driveways within the Project, no motorcycles, motorbikes, four wheel drive vehicles, minibikes, trail bikes or other similar motor driven vehicles shall be operated upon any Lot or parcel of land in the Project. Trails or tracks for such power driven bikes are specifically prohibited within the Project. Any such vehicle must be garaged. Maintenance work, except for washing, may not be undertaken on any vehicles of any nature whatsoever except inside a garage.

**5.12 NEWSPAPER AND PERIODICAL RECEPTACLES.** Newspaper and periodical receptacles are specifically prohibited within the Project.

**5.13 NO FURTHER SUBDIVIDING.** No Lot shall be further subdivided.

**5.14 OUTBUILDINGS.** No detached outbuildings, including sheds, portable structures, dog houses, or treehouses shall be placed or constructed on any Lot at any time.

**5.15 PETS.** No animals, livestock or poultry of any kind shall be raised, bred or kept within the Project, except for normal household pets from a list approved by the Board from time to time. In such event no more than two (2) dogs and/or two (2) cats may be kept upon or within the Lots and Dwelling Units of their Owners, and provided they are not kept, bred or maintained for any commercial purpose. Aquarium fish and small birds from the approved list may be kept inside, provided they are not a nuisance to neighbors, as decided by the Board in its sole discretion. No exotic pets shall be allowed, such as wild animals or pot-bellied pigs. All animals permitted pursuant to this section shall be kept inside except when on a leash under the direct control of a person. All pet Owners shall be fully responsible for the actions of their pets. Exposed excrement on Association Property shall be promptly removed by the pet owner. Failure to promptly remove the exposed excrement in a reasonable time frame as may be established by the ARB may be deemed a nuisance and a reasonable annoyance hereunder. Notwithstanding the foregoing, the Developer may allow a first time purchaser to have more than the allowed number of pets provided that such excess number of pets are not replaced when a pet dies.

**5.16 SALES AGENCY.** Notwithstanding anything to the contrary herein contained, the

Developer, or his approved agents and Builders, may construct and maintain a sales agency office or offices, together with a sign or signs, on Lots of its choosing in the Project.

**5.17 SIGNS.** No sign of any kind shall be displayed to the public view on any Lot in the Project, unless said sign has **prior written** Architectural Review Board approval or complies with the provisions **contained** herein:

(A) One (1) temporary sign not exceeding 12" x 24" in size and of a color and design and at a location approved by the Architectural Review Board, utilized in connection with the **sale** of a Lot, may be displayed on such Lot. Such sign shall contain only the following **information**: the word "**Available**" and a phone number.

(B) During the course of construction on a Lot, a general contractor licensed in the State of Florida and a financial or mortgage institution **funding** the construction may display to the public view, his professional company sign, but only on a Lot upon which he is currently constructing or financing a building, provided the one sign not exceed six (6) square feet or 2'-0" x 3'-0" in size. Such sign shall be promptly removed upon the issuance of a certificate of occupancy. No other contractor or subcontractor **signage** shall be permitted to be displayed in the Project.

(C) No pole flags advertising an open house may be erected on any Lot at any time. **An** open house shall be **limited** to one Saturday per week. All other showings shall be by appointment only. No other types of flags, banners or streamers shall be placed around the Lot, house or **any** other location within the Project. Arrow signs, directing traffic to an open house are also specifically prohibited.

(D) All signs must be professionally lettered. Signs not in conformance with this covenant, may be removed by the Developer or Homeowners' Association.

The Developer and any approved Builder are excluded **from** complying with the provisions of this Article V, Section 5.17 and may place signs throughout the Project in the manner either deems proper.

**5.18 TEMPORARY STRUCTURES.** No structure of a temporary character shall be placed upon any Lot at any time, provided, however, that this prohibition shall not apply to construction trailers or construction offices used by the Developer or Builder during the construction of the residential dwelling on a Lot owned by the Developer or Builder, it being clearly understood that these temporary shelters shall not, at any time, be used as residences or permitted to remain on the Lot after completion of construction.

**5.19 UNUSED EQUIPMENT.** No unused equipment, such as car bodies, materials or unsightly debris shall be allowed to remain on any Lot at any time.

**5.20 VEHICLES.** No vehicle shall be parked in the Project except on a paved driveway, or inside

a garage. No vehicle shall at any time be parked on grass or other vegetation. No trucks or vehicles which are used for commercial purposes, other than those present on business, nor any trailers, may be parked in the Project unless inside a garage and concealed from public view. Boats, boat trailers, campers, vans, motorcycles and other recreational vehicles and any vehicle not in operable condition nor validly licensed shall be permitted in the Project only if parked inside a garage and concealed from public view. No maintenance or repair on any boat or vehicle (except for normal washing) shall be permitted upon any Lot except within an enclosed garage. No person shall be permitted to remain in any vehicle parked within the Community overnight for any purpose. Except for the purpose of arrivals and departures, no person shall be permitted to remain in the Common Areas between the hours of 12:00 midnight and 6:00 a.m.

**5.21 GARBAGE AND TRASH DISPOSAL.** No garbage, refuse, trash or rubbish (including materials for recycling) shall be placed outside of a Dwelling Unit except as permitted by the Association. The requirements from time to time of the applicable governmental authority or other company or association for disposal or collection of waste shall be followed. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. Containers must be rigid plastic, no less than 20 gallons or more than 32 gallons in capacity, and well sealed. Such containers may not be placed out for collection sooner than the morning of the scheduled collection and must be removed within 12 hours of collection. In the event that an Owner or occupant of a Lot keeps containers for recyclable materials thereon, same shall be deemed to be refuse containers for the purposes of this Section.

**5.22 BOARD MAY PROMULGATE ADDITIONAL RULES AND REGULATIONS.** The Board shall have the right from time to time to promulgate such additional rules and regulations as shall be necessary to provide for the health, welfare and safety of the Owners residing in the Project and to prevent such nuisances as shall arise from time to time as relates to the use of the Lots and the Association Property, as set forth in the By-Laws of the Association, so long as such rules and regulations are not contrary to the provisions contained herein.

## ARTICLE VI

### COMMON AREAS, EASEMENTS, OTHER RIGHTS AND REGULATIONS

**6.01 COMMON AREAS.** The Common Areas include, but are not limited to, areas identified as such on any Plat.

**6.02 COMMON AREAS USE AND OWNERSHIP.**

(A) **Use of the Common Areas.** The land comprising the Common Areas, as depicted on any Plat and as defined in this Declaration, is intended to benefit and to be used by all Lot Owners and other designees or assignees of Developer and shall be used in accordance with rules and regulations governing the method, time and manner of use as may be promulgated by the Board of Directors of the Homeowners' Association from time to time. The Common Areas shall also be used

as part of the overall water management system serving and other areas designated by Developer

**(B) Ownership of the Common Areas.** The Developer currently holds title to the Common Areas and, in its sole discretion, may continue to hold such title for so long as it is the Class B member of the Association, as such member is described in Article X, Section 10.04 hereof. At such time that the Developer is no longer the Class B member of the Association, or sooner if it desires, the Developer shall convey to the Homeowners' Association by Quit Claim Deed, title to the Common Areas, subject to the rights of ingress, egress, use and maintenance of other designees or assignees of Developer, together with all of its rights and interest in and to any and all fixtures and improvements located thereon. Such conveyance shall be subject to the terms and provisions of this Declaration, taxes for the current year, applicable zoning ordinance, easements, restrictions and reservations of record and such facts as an accurate survey would show. The Homeowners' Association shall be required to accept such conveyance "as is" at the time of the conveyance, without any representation or warranty, expressed or implied, in fact or by law, as to the condition or fitness of the Property and the fixtures and improvements thereon. However, Developer shall transfer any third party warranties remaining. All costs and expense of such conveyance shall be paid by the Homeowners' Association. The Homeowners' Association shall not dispose of the Common Area or any Common Area, by sale or otherwise, except to an organization conceived and organized to own and maintain such Common Area(s), without first offering to dedicate same to the City, or other appropriate governmental agency.

**6.03 COMMON AREA MAINTENANCE.** Commencing with completion of the subdivision improvements, the Homeowners' Association shall be responsible for the maintenance and care of all Property forming a part of the Common Areas. In the event the Homeowners' Association shall fail to maintain such in reasonable order, the City shall have the right to maintain the Common Areas if so provided in the Code or consistent with any easements on any Plat granted to the City. In the event that the Homeowners' Association and the City fail to maintain the Common Areas in reasonable order, the Developer shall have the right, but not the obligation, to maintain the Common Areas and charge the Homeowners' Association in an amount equal to one hundred and twenty percent (120%) of the cost incurred by the Developer for such maintenance.

**6.04 MAINTENANCE PROGRAM.** On an annual basis the budgetary information for maintenance, repairs and operations of the facilities shall be reviewed and approved by the Board of Directors of the Association. As additional portions of the Project are platted, additional funds may be assessed and collected as required by this Declaration.

The Lakes require constant inspection and maintenance, provision for which has been made in compliance with various regulatory permits. Further specific permit requirements and agreements regulate operation and maintenance, data collection and reporting, renewal and replacement of the various surface water, stormwater management systems and mitigation areas. The above permit conditions, including but not limited to those imposed by DEP (if applicable), SWFWMD and the City, are regulated and performed by the Association.

The Homeowners Association has established a maintenance program for all Common Areas and which maintenance program will comply in all respects with the requirements of the regulatory bodies of the City and specifically its Code.

**6.05 LAKE MAINTENANCE EASEMENT.** The right to pump or otherwise remove any water from the lakes now existing or which may hereafter be erected either within the Project or adjacent or near thereto, for the purpose of irrigation or other use, and the placement of any matter or object in such lakes shall be strictly prohibited with the exception of a backup sprinkler system installed and controlled by the Developer or Association which would provide water for the master sprinkler system when the master sprinkler system has no other source of water.

The Developer shall have the right to control the water level of all Lakes and to control the growth and irrigation of plants, fowl, reptiles, animals, fish and fungi in and on such lakes, in accordance with the permitted parameters and conditions as issued by DEP (if applicable), SWFWMD and the City. The Owner of each Lot on a Lake recognizes that the plants and fauna on the Lake are necessary to filter the stormwater runoff and the Owner shall not disturb or alter the plants or fauna without the consent of the Developer, the City, DEP (if applicable) and SWFWMD.

No docks, bulkheads, moorings, pilings, boat shelters or other structure shall be constructed on any embankments adjacent to such lakes or within such Lakes, unless constructed by Declarant or a Builder (to the extent allowed by Declarant in accordance with its overall plan for Riviera Dunes). Maintenance of the grass, plantings or other lateral support to prevent erosion of the embankment of the lake shall be the responsibility of the Homeowners' Association. Maintenance of the outfall structures, filters and skimmers to prevent plugging or leakage shall be the responsibility of the Homeowners' Association.

#### **6.06 CITY RIGHTS.**

(A) A right of entry upon the Common Area(s) is hereby granted to City law enforcement officers, health and pollution control personnel, emergency service personnel and fire fighting personnel while in pursuit of their duties. City utility department personnel are further granted a right of entry upon the Common Areas, specifically including the roadways within the Project for the purpose of inspection, replacement and repair of all utilities dedicated to the City. This right of entry is with the understanding that the City will restore any improvements damaged by such entry, to such improvement's condition prior to the damage; understanding, however, that such restoration will not include the restoration of any decorative or specialty brick paving, but only normal and customary re-paving.

(B) Notwithstanding anything herein contained to the contrary, the Homeowners' Association shall not be dissolved, nor shall the Homeowners' Association dispose of any Common Area by sale or otherwise except to an organization conceived and organized to own and maintain the Common Areas, without first offering to dedicate the same to City or appropriate governmental agency.

**6.07 SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT REGULATIONS AND FLOODWAY RESTRICTIONS.** It shall be the responsibility of each Owner, at the time of construction of any building, residence or other structure, to comply with the construction plans for the Stormwater Management Systems for Riviera Dunes pursuant to Chapter 40D-4 of the Florida Administrative Code (F.A.C.), to the extent approved, or as approved in the future, by **SWFWMD** or DEP and on file with **SWFWMD** or DEP.

It is the Owners' responsibility not to remove native vegetation that become established within the wet detention ponds abutting their respective Lots or Parcels. Removal includes dredging, the application of herbicide, cutting and introduction of grass carp. Owners should address any question regarding authorized activities within the wet detention ponds to **SWFWMD**, Venice Permitting Department, or from DEP if indicated in the applicable permit.

No Owner may construct or maintain any building, residence, or structure, or undertake or perform any activity in the wetlands, buffer areas, and upland conservation areas described in the approved permit, any subsequently-approved permits and any recorded plat in which the Owner's Lot or Parcel is located, unless prior approval is received from **SWFWMD**, Venice Permitting Department, or from DEP if indicated in the applicable permit.

No activity may be undertaken or performed in wetlands and upland buffer zones for overland flow treatment of stormwater which are contained within any conservation easements and described in any recorded plat of any portion of Riviera Dunes, unless prior approval is received from **SWFWMD**, Venice Permitting Department, or from DEP if indicated in the applicable permit. Prohibited activities within wetland and upland conservation areas include the removal of native vegetation; the use of pesticides, herbicides or fertilizers; excavation; placement or dumping of soil, trash or land clearing debris; and construction or maintenance of any building, residence, or structure.

The Association shall be responsible for stormwater monitoring data collection and reporting, operation and maintenance, and renewal and replacement of the stormwater management systems as required in the development approvals and permits issued by the City and **SWFWMD**. The City shall have the authority to inspect such systems and assess the Association, individual properties, or special district for continuing performance of the systems in compliance with the standards set forth in the monitoring program.

**6.08 UTILITY AND DRAINAGE EASEMENTS.**

(A) Easements for the installation and maintenance of utilities and drainage facilities are as shown on any Plat (or as otherwise created). No Dwelling Unit, Structures, planting or other materials shall be placed or permitted to remain within these easement areas which may impair the intended use of such easement areas, including but not limited to, changing the direction or flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement areas on each Lot and all improvements thereon

shall be maintained continuously by the Owner of the Lot on which they are located, except those improvements for which a public authority or utility company is responsible. The Developer reserves the right for itself and for the benefit of the Homeowners' Association, public or private utility agencies, authorities or franchises, to enter upon any Lot or the Common Areas for the purpose of installing, maintaining, repairing or replacing any utility or drainage facility within the easement area without notice to or consent from any Lot Owner or the Homeowners' Association and without compensation to any Lot Owner or the Homeowners' Association. Such entries shall be deemed lawful entries and not trespasses.

(B) All utility lines and lead in wires for electrical, telephone and cable T.V. service located within the confines of a Lot, but outside of utility easements, shall be located underground at a depth of not less than twelve (12) inches from the surface; provided, however, nothing contained herein shall prevent an aboveground temporary power line to a residential Dwelling Unit during the construction thereof.

**6.09 CONSERVATION EASEMENTS.** Areas on any Plat designated "Conservation Area," if any, or areas designated on any Plat as subject to an easement in favor of either the DEP, SWFWMD or the City are subject to the restrictions contained in said easement(s) and **Article VI, Section 6.08**. No Lot Owner shall violate said restrictions contained in said easements. Developer retains the right to create additional conservation areas or easements in favor of any agency listed above, and to transfer ownership of the rights and responsibilities relative to any conservation area, or easement to the Homeowners' Association.

In addition to the restrictions contained herein and in said conservation area(s) or easements, the following additional restrictions shall apply in the conservation area(s) dedicated to City, SWFWMD or DEP. Unless permitted by the agency having jurisdiction, the following acts and activities are expressly prohibited within the boundaries of the conservation easement area(s) without the prior consent of said agency.

(A) Construction or placing of buildings, roads, signs, billboards or other advertising or other structures on or above the ground.

(B) Construction or placing of utilities on, below or above the ground without appropriate local, state and federal permits or other authorization.

(C) Dumping or placing of soil or other substances or material as landfill or dumping or placing trash, waste, unsightly or offensive materials.

(D) Removal, mowing, or trimming of trees, shrubs or other vegetation.

(E) Excavation, dredging or removal of loan, peat, gravel, soil, rock or other material substances in such manner as to affect the surface.

(F) Surface use except for purposes that permit the land or water areas to remain in its natural condition.

(G) Any activity detrimental to drainage, flood control, water conservation, erosion control, soil conservation or fish and wildlife habitat preservation.

(H) Acts or uses detrimental to such retention of land or water areas.

Easement(s) dedicated to and enforceable by the City, for the benefit of the City and the Owners of the project shall accomplish the preservation and protection of the conservation values of the property; allow City access to the property at reasonable times in order to monitor compliance with, and otherwise enforce the terms of the easement, provided such entry does not interfere with the Owner's use and quiet enjoyment of the property; and prevent any activity or use of the property that is inconsistent with the purpose of the easement and to require the restoration of such areas or features of the property that may be damaged by and inconsistent activity or use.

Notwithstanding the above, restricted and prohibited activities within the conservation areas and easements include the removal of native vegetation, excavation, placement or dumping of soil, trash or land clearing debris, and construction or maintenance of any building, residence or Structure, except as herein provided, and the application of fertilizers, herbicides or pesticides.

**6.10 EASEMENTS FOR PEDESTRIAN AND VEHICULAR TRAFFIC.** Subject to reasonable security precautions imposed by the Association, including but not limited to installation and operation of guard houses or gate houses, there shall be easements for pedestrian **traffic** over, through, across and upon sidewalks, paths, lanes and walks as the same may **from** time to time exist upon the Common Areas and be intended for such purposes; and for pedestrian and vehicular **traffic** and parking over, through, across and upon such portions of the Common Areas as may **from** time to time be paved and intended for such purposes, such easements being for the use and benefit **of the** Association, the Developer, the Owners, and their respective families, successors, **assigns**, agents, employees, servants, guests, lessees and **invitees**, to the exclusion, however, of the public at large, subject to the following:

(A) Reasonable speed limits may be designated by **the Board** and shall be posted on the roads, streets and ways within the Common Areas.

(B) **Only** drivers licensed to operate motor vehicles by the State of Florida or by another state in the United States may operate any type of motor vehicle upon the streets, roads and ways within the Project.

(C) The Board shall have the power to promulgate, administer and enforce reasonable rules and regulations for control of traffic and for security.

(D) There shall be no racing of any nature whatsoever on the streets, roads and ways

within the Project.

**6.11 EASEMENT FOR ENCROACHMENTS.** Easement(s) for encroachments are hereby created in favor of the Declarant and the Homeowners' Association, if any portion of the improvements located on any portion of the Property now or **hereafter** encroaches upon any of the remaining portions of the Property as a result of minor inaccuracies in survey, construction or reconstruction, or due to settlement or movement. Any easement for encroachment shall include an easement for the maintenance and use of the encroaching improvements in favor of **Declarant** and the Homeowners' Association and their designees.

**6.12 ADDITIONAL EASEMENTS.** Declarant, as long as it is a Class B member of the Homeowners' Association, and the Homeowners' Association shall have the **right** to execute, without **further** authorization, such grants of easement or other instruments as may **from** time to time be necessary or desirable over, under, across and upon the Property or portions thereof in accordance with or to supplement the provisions of the Declaration or as may otherwise be desirable for the development of the Property, or adjoining Property, subject to limitations as to the existing Dwelling Units or other permanent structures or facilities constructed within the Property. Such easements may be for the use and benefit of persons who are not Owners and for additional lands or other real property which is not part of the Property. Without limiting the foregoing, Declarant, for itself, its designees and the Homeowners' Association reserves the right to impose upon the Property henceforth and from time to time such easements and cross-easements for ingress and egress, maintenance, and the installation, maintenance, construction, and repair of utilities and facilities including, but not limited to, electric power, telephone, cable television, master antenna transmission, **surveillance** services, governmental and quasi-governmental purposes, sewer, water, gas, drainage, **irrigation**, lake maintenance, stormwater management, preservation of sanctuaries, lighting, television transmission, garbage and waste removal, emergency services, and the like as it desires in its sole discretion.

**6.13 ASSIGNMENT.** The easements reserved hereunder unto Declarant may be assigned by Declarant in whole or in part to the Homeowners' Association, a Builder, any city, county or state government or agency thereof, or any duly licensed or franchised public utility, or any other designee of Declarant.

**6.14 ASSOCIATION RIGHT OF ENTRY .** The Homeowners' **Association** has the irrevocable **right** of access to each Lot during reasonable hours, when necessary for the ordinary maintenance, repair or replacement of any Common Areas or easements, and without notice, for making emergency repairs which are necessary to prevent damage to the Common Areas or to other Lots.

**6.15 DOCKS AND BOAT SLIPS.** A limited number of boat slips associated with docks to be constructed in the Harbor will be reserved to areas of Riviera Dunes outside the Project. The Developer reserves the absolute right to allocate the limited boat slips between and among the commercial uses and the residential uses. Residential usage will be established by Developer filing a Supplemental Declaration describing the location, number of slips and limitations on use, if any,

such as for power boats or sailboats or size. Developer further reserves the absolute right to allocate such boat slips in the same manner between and among the various phases of the residential portions of Riviera Dunes, when and as the phases are added. Developer may, but is not required to, allocate individual boat slips to individual Harborfront Lots in the same manner. The rights in and to a boat slip, once allocated by a Supplemental Declaration shall run with the Lot. An Owner's interest in a boat slip shall be represented by a License Agreement granting perpetual rights to use the Boat Slip, in a form that may be recorded in the public records. Such License Agreement evidences an Owners interest in a boat slip located on a Private Dock or Neighborhood Marina and such Owners exclusive right to use the Harbor and Boat Slip area on such dock.

(A) **Definitions.** The following definitions shall apply to this Section 6.15:

1. **Neighborhood Marina** shall mean a multi-slip boat dock, constructed by Developer or assign for the use of a specific neighborhood within the Project. Each Neighborhood Marina shall have a set number of boat slips that shall be either Private Slips or Association Slips.
2. **Private Dock** shall mean a single slip dock, for one boat only, that is specifically associated with an adjoining Harborfront Lot. No Lots other than Harborfront Lots that are not Non-Dock Harborfront Lots, as defined below, may have a Private Dock. The slip associated with a Private Dock shall only be a Private Slip and which runs with the Harborfront Lot to which the Private Dock is attached.
3. **Private Slip** shall mean a boat slip for a single boat reserved specifically for a particular Lot Owner. A Private Slip may be located on a Neighborhood Marina or on a Private Dock.
4. **Association Slip** is a boat slip for a single boat that is reserved for the non-exclusive use of all Lot Owners within the neighborhood served by the Neighborhood Marina on which the Association Slip is located. An Association Slip may only be associated with a Neighborhood Marina.
5. **Northshore Neighborhood** shall mean that area of the Project generally located north of the Harbor and as defined by the map kept with Declarant or the Association.
6. **Peninsula Neighborhood** shall mean that area of the Project generally located east of the Harbor and as defined by the map kept with Declarant or the Association.
7. **Island Neighborhood** shall mean that area of the Project generally located south of the Harbor and as defined by the map kept with Declarant or the

Association.

8. Hammocks Neighborhood shall mean that area of the Project generally located east of Northshore Neighborhood and north of the Peninsula Neighborhood and as defined by the map kept with Declarant or the Association.
9. Non-Dock Harborfront Lot shall mean a Harborfront Lot in such proximity to a Neighborhood Marina or the channel that no Private Dock is **permitted** to be constructed thereon. The following Lots are currently designated **Non-Dock Harborfront** Lots and Declarant reserves the **right** to alter or change the designation of what is a Non-Dock Harborfront Lot as reflected in the records of the Association: Lot 76 in the Northshore Neighborhood; Lots 13, 14 & 15 in the **Peninsula** Neighborhood and Lots **24,25**, 26 & 47 in the Island Neighborhood.

(B) Use and Access. The use of, and access to, the docks shall be limited as follows:

1. **"Private Docks"** shall be used only by the Owner and its invitees of the **Harborfront** Lot on which the Private Dock is constructed. The Private Dock may have only one Private Slip for the berthing of one boat only.

2. Neighborhood Marinas are to be located at common areas **within** the Project, may be constructed in phases by Developer or assign and shall have dock slips that shall be used only by the Owners and their **invitees** within the neighborhood of the Project to which the boat slips thereon are allocated as follows:

- (a) Northshore Neighborhood Marina. Shall serve the Lots in the Northshore Neighborhood. There is currently planned a total of forty-two (42) boat slips at the Northshore Neighborhood Marina, two of which shall be Association Slips. Declarant reserves the right to change the number of slips and allocation in such marina. All Owners in the Northshore Neighborhood will have a partial interest in the Association Slips **which** may be used by any such Owner or his **invitee(s)** at any time, on a first come first served basis and subject to rules and regulations of the Association. The Private Slips will be available for assignment to individual Owners within the **Northshore Neighborhood** and upon assignment to an Owner only that Owner and his **invitee(s)** shall have use of such Private Slip. At any time that one (1) or more of the Private Slips have not been assigned to an individual Owner, such slips, remain under the use and control of the Developer or Builder that constructed such Marina, until such time as it becomes assigned to a specific Owner.

(b) Peninsula Neighborhood Marina. Shall serve the Lots in the Peninsula Neighborhood and in the Hammocks Neighborhood. There is currently planned a total of thirty-nine (39) boat slips at the Peninsula Neighborhood Marina, two of which shall be Association Slips. Declarant reserves the right to change the number of slips and allocation in such marina. All Owners in the Peninsula and Hammocks Neighborhoods will have a partial interest in the Association Slips which may be used by any such Owner or his invitee(s) at any time, on a first come first served basis and subject to rules and regulations of the Association. The Private Slips will be available for assignment to individual Owners within the Peninsula and Hammocks Neighborhoods and upon assignment to an Owner only that Owner and his invitee(s) shall have use of such Private Slip. At any time that one (1) or more of the Private Slips have not been assigned to an individual Owner, such slips, remain under the use and control of the Developer or Builder that constructed such Marina, until such time as it becomes assigned to a **specific** Owner.

(c) Island Neighborhood **Marina**. Shall serve the Lots in the Island Neighborhood. There is currently planned a total of twenty-eight (28) boat slips at the Island Neighborhood Marina, two of which shall be Association Slips. Declarant reserves the right to change the number of slips and allocation in such marina. All Owners in the Island Neighborhood will have a partial interest in the Association Slips which may be used by any such Owner or his invitee(s) at any time, on a first come first served basis and subject to rules and regulations of the Association. The Private Slips will be available for **assignment** to individual Owners within the Island Neighborhood and upon assignment to an Owner only that Owner and his invitee(s) shall have use of such Private Slip. At any time that one (1) or more of the Private Slips have not been assigned to an individual Owner, such slips, remain under the use and control **of the** Developer or Builder that constructed such Marina, until such time as it becomes assigned to a specific Owner.

(c) -Construction. All docks, both Private Docks and Neighborhood Docks, must be constructed in conformance with design criteria therefor as established by the Developer **and/or** the Master Association. All docks must be constructed by the builder approved by the Developer and/or the Master Association who shall be a Class A certified general contractor. In addition to the design criteria established by the Developer or the Master Association, no Private Dock shall permit piling **from** the bulkhead cap to the **riprap** line and no construction may penetrate or alter the membrane beneath the **riprap** material. Each Private Dock must be constructed from the center line of the Harborfront Lot on which it is located. The **platform** of the dock shall be either 30 feet in length or 40 feet in length and shall be 10 feet in depth. A Private Dock adjacent to a conservation area may be allowed to be offset with specific Architectural Review Board approval. No Private Dock may extend more than 90 feet from the bulkhead line without the specific approval of the Architectural

Review Board, which approval may be withheld for any or no reason. No boat in excess of 62 feet may be kept at a Private Dock without the specific approval of the Architectural Review Board. Any davits must be specifically approved by the Architectural Review Board. No structures, either temporary or permanent may be added to a Private Dock, except for furniture items or fish cleaning tables, any of which must be specifically approved by the Architectural Review Board. Boat Houses and Gazebos are prohibited.

**(D)** Transfer of Boat Slip Rights. In the event that an Owner sells or leases his Lot, such\* Owner's right of use and interest in any boat slip in a Neighborhood Marina shall be transferred to the purchaser or lessee of the Owner's Lot. However, the right of use and interest of any lessee shall terminate automatically and simultaneously with termination of the lease agreement, and remain with the Owner only.

With prior approval by the Association, which approval shall not unreasonably be withheld, any Owner of a Private Slip in a Neighborhood Marina may sell his Private Slip to any other Owner of a Lot served by that Neighborhood Marina. With prior approval by the Association, which approval shall not unreasonably be withheld, any two (2) or more Owners of Private Slips in a Neighborhood Marina may trade their Private Slips or transfer their Private Slip to any other Owner within the same Neighborhood Marina. ***No Private Slip may be transferred to any person that is not an Owner within the Neighborhood served by the Neighborhood Marina on which such Private Slip is located***

Private Slips associated with Private Docks shall run with the Lot on which the Private Dock is constructed. ***No Private Slip on a Private Dock may be transferred to any person that is not the Owner of the Lot on which the Private Dock is constructed***

The transfer of any Private Slip shall be evidenced by a License Agreement in a form approved by the Developer or Association, a copy of which must be delivered to the Association for its records.

**(E)** Maintenance. Private Docks shall be maintained, repaired and replaced by the Harborfront Lot Owner to which the Private Slip has been allocated. Neighborhood Marinas shall be maintained, repaired and replaced by the Association, with the costs allocated to the benefitted Owners as a Special Assessment. The liability of each Owner for any such Special Assessment shall be based upon a calculation which includes (1) the type of interest the Owner has in the Neighborhood Marina (whether the Owner owns a Private Slip or only shares the Association Slips); (2) the number of Association Slips available at the time of the Special Assessment; and (3) the number of Private Slips available at the time of the Special Assessment. The Association shall maintain a record of the number of Association Slips and Private Slips available at each Neighborhood Marina and apportion and charge Owners the Special Assessment accordingly. All Owners in such Neighborhood will share equally in the amounts due for the apportioned percentage of Association Slips. In addition to the amount of Special Assessment due for the Association Slips, all Owners of Private Slips will share equally in the amounts due for the apportioned percentage of

the Private Slips.

(F) **Enforcement.** If an Owner fails to comply with any of the provisions of this Section, then the Association or the Master Association may perform such acts as are the responsibility of the Owner and the cost of same shall be treated initially as a Common Expense, but charged against the Lot Owner as a Special Assessment (if performed by the Association), or similarly treated and assessed under the Master Declaration.

(G) **Insurance.** Each Owner shall be required to maintain general liability insurance on any Boat Slip owned by such Owner in an amount reasonably set by the Association.

**6.16 HARBOR OWNERSHIP AND RULES.** Neither ownership of the submerged lands within the Harbor, nor the right to use a boat slip, go with ownership of a Lot, and the Harbor is not a Common Area. Developer retains ownership of the Harbor, together with the right to transfer rights therein to others, subject to the rights contained in this Declaration that are reserved for the Owners or the Association. Developer reserves the right to establish and change rules and regulations from time to time concerning the security, traffic, speed and use of the Harbor, including the right to temporarily close the Harbor for events. There may be other rights and restrictions as to the Harbor reserved to the Developer, the Master Association or otherwise in the Master Declaration.

## ARTICLE VII

### ARCHITECTURAL CONTROL

#### **7.01 APPROVAL OF PLANS.**

(A) To further ensure the development of the Project as a residential area of the highest quality and standards and in order to ensure that all improvements and landscaping constructed upon each Lot in the Project shall present an attractive and pleasing appearance from all sides of view, there shall be an Architectural Review Board to review all plans and specifications prior to commencement of construction on any Lot in the Project. The original Architectural Review Board shall be composed of a **minimum** of three (3) persons appointed by the Developer who shall serve on the Architectural Review Board so long as the Developer is a member of the Homeowners' Association or replaced by the Developer. The Developer shall have the right to remove or replace Architectural Review Board members as it deems necessary to ensure the continued effective **functioning** of the Architectural Review Board. At such time as the Developer is no longer an Owner of any Lot, then the Homeowners' Association shall appoint an Architectural Review Board to replace the Architectural Review Board originally appointed by the Developer.

(B) The Architectural Review Board will approve plans according to a set of guidelines which must be followed by all those building in the Project. The Architectural Review Board shall adopt and promulgate the Architectural Standards and guidelines for the Project. The Architectural Standards may not be contrary to the provisions of this Declaration and shall be consistent with the

original architectural, structural, aesthetic and environmental concept of the Project. All Architectural Standards shall be adopted and applied on a uniform basis, and may be revised or expanded from time to time to take cognizance of new materials, techniques and proposals. All Architectural Standards shall be deemed to include the obligations, prohibitions and guidelines contained herein and in the Master Declaration, the Code, and the Development Order as it may be amended. The Architectural Review Board shall not be responsible for reviewing, nor shall its approval of any plans and specifications be deemed approval of any plan or design from the standpoint of structural safety or conformance with building codes or other governmental regulations.

## **7.02 POWER OF ARCHITECTURAL REVIEW BOARD.**

(A) The Architectural Review Board is hereby given and granted the exclusive power and discretion to control and approve all buildings, Dwelling Units, Structures, landscaping and other improvements to be constructed upon each Lot in the Project in the manner and to the extent set forth herein. No residence, building, or other Structure and no fence, walled utility area, driveway, swimming pool or other Structure or improvement, regardless of size or purpose, whether attached to or detached from the main residence, shall be commenced, placed, erected or allowed to remain on any Lot in the Project nor shall any addition to or exterior change or alteration be made to any existing residential building or Structure, or to the landscaping or any other improvement, **unless** and until building plans and specifications **covering** the same, showing the nature, kind and shape, height, size, materials, floor plans, exterior color schemes, location and orientation of the Dwelling Unit on the Lot and approximate square footage, construction schedule, front, side and rear elevations, and such other information as the ARB shall require, including, survey, plans for the grading and landscaping of the Lots showing any changes proposed to be made in the elevation or contours **of the** land, have been submitted to and approved in writing by the ARB.

(B) The exterior elevations **of all Dwelling Units**, residences, buildings or Structures visible from a right-of-way shall be of material approved by the ARB. All architectural, remodeling and landscaping plans must be accompanied by site plans which show the location of the Dwelling Unit or residence on the Lot. The ARB shall have the absolute and exclusive right to **refuse** to approve any such building plans and **specifications** and Lot grading and landscaping plans which are not suitable or desirable in its sole discretion and opinion for any reason, including purely aesthetic reasons. In the event the ARB rejects any proposed plans and specifications as submitted, the ARB shall so inform the Owner in writing, stating with reasonable detail the **reason(s)** for disapproval and the **ARB's** recommendation to remedy same if, in the sole opinion of the ARB, a satisfactory remedy is possible. In passing upon such building plans, the ARB may take into consideration the suitability and desirability of the proposed construction and **of the** materials of which the same are proposed to be built, the building plot where the proposed construction is erected, the quality of the proposed **workmanship** and materials, the harmony and exterior design with the **surrounding** neighborhood and existing structures therein and the effect and appearance of such construction as viewed **from** neighboring Lots. In addition, there shall be submitted to the ARB for approval such samples of building materials proposed to be used as the ARB shall specify and require.

(C) The ARB may establish a review fee, to be paid by a Lot Owner coincident with submittal of plans and specifications for review.

**7.03 METHOD OF APPROVAL.** As a prerequisite to consideration for approval, and prior to beginning the contemplated work, the Lot Owner shall submit two (2) complete sets of plans and specifications to the ARB for review, including the survey. Upon the ARB giving written approval of the plans and specifications, construction shall be commenced and proceed to completion promptly and in strict conformity with such plans and specifications. The Developer, Homeowners' Association, the ARB and other Lot Owners in the Project shall be entitled to enjoin any construction in violation of these provisions and any such exterior addition to or change or alterations made without application having first been made and approval obtained as required shall be deemed to be in violation of this covenant and may be required to be restored to the original condition at the Lot Owner's cost. In the event the ARB fails within thirty (30) days of receipt of proposed plans and specifications to approve or disapprove the same, approval will not be required and the proposed plans and specifications shall be deemed to be in compliance with this Section.

All structures must be built and landscaping completed and maintained to comply substantially with the plans and specifications as approved by the ARB.

**7.04 DECLARANT, ASSOCIATION AND ARB EXCULPATION AND APPROVALS.**

Declarant, the Association, or the ARB or their agents may grant, withhold or deny their consent, permission or approval in any instance where their consent, permission or approval is permitted or required at its sole discretion and without any liability of any nature or kind to an Owner or any other person for any reason whatsoever and the Declarant, Association, or ARB shall be indemnified and held harmless from any and all damages resulting therefrom, including but not limited to, court costs and reasonable attorney's fees. Every consent, permission or approval by the Declarant, Association, or ARB or its agents under this Declaration shall be in writing and binding upon all Owners.

**7.05 RIGHT OF DEVELOPER TO GRANT VARIANCES.** The absolute right and sole discretion is hereby reserved to Developer to grant variances from the terms and provisions of Articles IV and VII. Upon termination of the Developer as a Class B Member, the right to grant variances in accordance with this Section shall be reserved unto the Homeowners' Association and their appointed Architectural Review Board. Such variances, if granted, shall be granted upon written application of the Owner setting forth in detail the variance required and reasons for requesting such variance. Any such variance, if granted, shall be granted by Developer, or Homeowners' Association after Developer ceases to be a Class B Member, in writing and shall be strictly complied with by the applicant. All such variances shall be executed with the formalities of a deed and recorded in the Public Records of Manatee County, Florida, to become effective.

**7.06 CONSTRUCTION OF IMPROVEMENTS.** All construction, including materials, vehicles, equipment, supplies, temporary facilities and all activities must be contained entirely within the Lot. The Owner shall be responsible for repairing any damage to subdivision improvements during construction at Owners expense and under the direction of the Association. All construction debris

must be placed in an approved container, which must be removed promptly when filled and which must be placed on the Lot prior to the commencement of construction. The Owner shall at **all** times keep the Lot clean and neat and all landscaping in a healthy trimmed condition. All non-emergency construction, repair or maintenance shall be confined to the hours between 7:00 a.m. and 6:00 p.m. Monday through Friday, and from 8:00 a.m. to 4:00 p.m. on Saturday. No construction activities may occur out side of such times, nor on national holidays, except for repairs of an emergency nature.

## ARTICLE VIII

### PROTECTIVE COVENANTS - HARBOR

The Project is planned in conjunction with ultimate construction of the Harbor. While the Harbor is not included in the Project, many of the Lots **front** on the Harbor and all of the Lots in the Project enjoy advantages by their close proximity to the Harbor.

Therefore, in addition to the restrictive covenants set forth herein, the following protective covenants, conditions, easements and restrictions shall constitute covenants running with the land and shall be binding upon the Lot Owners. The protective covenants for the Harbor are in addition to the general protective covenants found elsewhere in this Declaration, and in the Master Declaration, the Code, and the Development Order as it may be amended. The covenants set forth in this **Article VIII** shall control where the protective covenants conflict.

**8.01 HARBOR Developer** (or other parties at the discretion of **Developer**) may **from time** to time provide events within the Harbor and shall have the exclusive right to establish **from time** to time, in its sole discretion and without notice or approval, rules and regulations for the use of the Harbor. By way of example, but not limitation, **Developer** has the right to approve users and determine eligibility for use, to reserve use rights for **future** purchasers, to transfer any or all of the Harbor or operation thereof to anyone (including without limitation a member-owned or equity club) and on any terms. Ownership of any Lot or membership in the Homeowners' Association does not give any vested right or easement, prescriptive or otherwise, to use the Harbor, and does not grant any ownership or membership interest in the Harbor.

## ARTICLE IX

### ENFORCEMENT OF RESTRICTIVE COVENANTS

**9.01 LOT OWNER ENFORCEMENT.** If any Lot Owner shall violate any one or more of the covenants and restrictions or attempt to violate any one or more of the covenants and restrictions set forth in this Declaration, it shall be **lawful** and proper for any other Lot Owner or Lot Owners or the Homeowners' Association to bring and prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate the same, either to prevent such violation or to recover damages by reason thereof. The prevailing party to each action shall be entitled to recover

all costs and expenses, including court costs, from the losing party or parties and reasonable attorney's fees, incurred by the prevailing party in bringing such action, including same on appeal.

**9.02 DEVELOPER ENFORCEMENT.** The Developer, so long as it is a Member of the Association, may enforce by legal means, the provisions of this Declaration. There shall be no liability assessed against the Developer for non-enforcement of the provisions of this Declaration. In the event that the Developer determines that any Lot Owner is in violation of any provision of this Declaration, the Developer or an agent for the Developer shall notify the Owner of the nature of the violation. If said violation is not cured within five (5) days, or if said violation consists of acts or conduct by the Owner, and such acts or conduct are repeated, the Developer may levy a fine against the Owner for each offense. The amount of such fine shall be \$100.00 per violation per day of continuing violation with no maximum aggregate fine, or such higher fine as may be allowed by Chapter 617, *Florida Statutes*, from time to time. Each day during which the violation continues shall be deemed a separate offense. Such fines shall be assessed as a Special Assessment against the Owner and shall constitute a lien upon the Lot of such Owner, and may be foreclosed as provided for in Article XI of this Declaration.

**9.03 WAIVER.** Failure by the Developer, Homeowners' Association or any Owner to enforce any covenants or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

## ARTICLE X

### HOMEOWNERS' ASSOCIATION

**10.01 INCORPORATION.** The Developer has caused the Homeowners' Association, to be incorporated pursuant to the *Florida Statutes*.

**10.02 PURPOSES.** The purposes of the Homeowners' Association include, but are not limited to:

- (A) Promoting the health, safety and general welfare of the residents of the Project;
- (B) Constructing, installing, improving, maintaining and repairing any properties lying within the Common Areas which give common benefit to all residents in the Project;
- (C) Adopting such guidelines and rules as it deems necessary to control the over-all appearance of the Common Areas in the Project, as well as the uses thereof;
- (D) Purchasing, installing and maintaining any improvements which the Homeowners' Association deems necessary for the improvement of the Project including, but not limited to, the installation and maintenance of median and entry-way landscaping, entry-way(s) signage, street lighting, if applicable, and other similar improvements throughout the Project;

(E) Owning, constructing and maintaining any recreational facilities which the Homeowners' Association deems to be in its best interest;

(F) Maintaining any easement area, Common Areas, conservation or preservation areas, and detention ponds within which are not deemed properly maintained by the individual Lot Owners;

(G) Owning, operating and maintaining the surface water management system as permitted by SWFWMD, including all lakes, retention areas, culverts and related appurtenances unless otherwise provided herein. Alterations to the permitted system will require a permit from SWFWMD.

**10.03 MEMBERSHIP.** Each Lot Owner of any Lot lying within the Project (notwithstanding how such ownership interest was acquired) shall be a member of the Homeowners' Association and, by acceptance of any ownership interest in a Lot, agrees to comply with and abide by the terms and provisions set forth in this Declaration, the Articles and the By-Laws of the Homeowners' Association, as they may be amended from time to time, together with such Rules and Regulations as may be adopted and amended by the Association from time to time.

**10.04 VOTING CLASSIFICATION.** The Homeowners' Association shall have two (2) classes of voting membership:

(A) **Regular Class A.** Regular Class A Members shall be all Lot Owners, with the exception of the Developer, and there shall be one (1) vote for each Lot, except as otherwise provided in the By-Laws.

(B) **CH Special Class A.** Upon the Turnover Date, as hereinafter defined, in addition to their vote as a Regular Class A Member all Club Home Lot Owners shall be CH Special Class A Members, with the exception of the Developer. Such CH Special Class A Members shall be entitled to one (1) vote for each Lot for the sole and exclusive purpose of selecting three committee members to make binding recommendations to the Board on the Club Home Maintenance Assessments amount, Special Assessments and Reserve amounts and the decisions relative to such maintenance, such as the landscape company to hire for the landscape maintenance. Such decisions shall be binding on the Board and shall be included in the Budget as it may be amended from time to time.

(C) **Class B.** The sole Class B member shall be the Developer or Declarant, and it shall be entitled to cast such number of votes, on each and every matter coming before the membership for a vote thereon, equal to the product obtained when multiplying the number of Class 4 votes entitled to be cast times four (4). The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs earlier (hereinafter, "Turnover Date"):

1. The date prescribed by the operation of Section 617.307(1), *Florida Statutes* (1999); or

2. The effective date on which Declarant surrenders its right to Class B membership status in writing.

(D) Notwithstanding anything to the contrary contained herein, upon conversion of the Class B membership to Class A membership, the Developer shall become a Class A Member with regard to each Lot owned by it, and a CH Special Class A Member with regard to each Club Home Lot owned by it, and shall be entitled to one (1) vote for each such Lot, as set forth in **Article X**, Section 10.04 (A) and (B) above, on all questions and matters coming before the membership of the Association for a vote thereon.

## ARTICLE XI

### DUTIES AND POWERS OF ASSOCIATION

**11.01 GENERAL DUTIES AND POWERS OF THE ASSOCIATION.** In addition to the duties and powers enumerated herein and in the Articles and By-Laws and without limiting the **generality** thereof, the Association shall:

- (A) Enforce the provisions of this Declaration, the Articles and By-Laws by appropriate means and carry out the obligations of the Association hereunder.
- (B) Make and collect assessments against Members to defray the cost of the Common Expenses of the Project as provided in the Declaration.
- (C) Use the proceeds of assessments in the exercise of its powers and duties.
- (D) Accept, hold title to, own, purchase, acquire, replace, improve, manage, maintain and administer the use of the Association Property in accordance with the Declaration.
- (E) Purchase insurance upon the Association Property and for the protection of the Association **and** its Members.
- (F) Contract to **reconstruct** the improvements of the Association Property **after** casualties and **further** to improve the Association Property in accordance with the Declaration.
- (G) Adopt and amend reasonable rules and regulations respecting the use of the Association Property in accordance with the Declaration.
- (H) Enforce by legal means the provisions of the Declaration, the By-Laws of the Association, and regulations duly adopted by the Association.
- (I) Furnish or otherwise provide for private security, fire protection or such other services as the Board in its discretion determines necessary or appropriate.

(J) Pay any real and personal taxes and other charges assessed against the Association Property unless same are separately assessed to the Owners.

(K) Obtain all required utility and other services for the Association Property.

(L) Maintain architectural control over the Project in accordance with the Declaration.

(M) Negotiate and contract for such materials and services for the benefit of all or any part of the Lot Owners who may subscribe to or elect to accept such materials or services as agent on behalf thereof, in accordance with the Declaration.

(N) Borrow money and pledge assets of the Association as security therefor pursuant to the Declaration.

(O) Establish a special tax district for the performance of all or a part of the maintenance or other functions provided by the Declaration as the responsibility of the Association.

(P) Employ personnel for reasonable compensation to perform the services required for the proper carrying out of the Association responsibilities.

(Q) Prepare and maintain such parts of the Project as may be provided in the Declaration.

(R) Exercise such further authority as may be reasonably necessary to carry out the obligations of the Association set forth in the Declaration, these Articles or By-Laws, including any right or power reasonably to be inferred from the existence of any other right, power, duty, obligation given to the Association, or reasonably necessary to effectuate its obligation under the Declaration.

(S) Operate and maintain any stormwater management system or stormwater discharge facility as required or permitted by SWFWMD or DEP as appropriate. Should this Association be dissolved, any stormwater management system and discharge facility shall be maintained by an entity approved by SWFWMD or DEP as appropriate.

(T) **Maintain**, repair and replace the seawall and rip-rap around the Harbor. Costs of any such maintenance, repair and replacement shall be charged as a Special Assessment to all Harborfront Lot Owners, pro rata.

## ARTICLE XII

### COVENANTS FOR HOMEOWNERS' ASSOCIATION ASSESSMENTS

**12.01 CREATION OF LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS.** Each Owner of any Lot lying within the Project, (regardless of how title is acquired, including without limitation, a purchase at a judicial sale), by acceptance of such ownership, shall hereafter be deemed

to covenant and agree to pay to the Homeowners' Association any Assessment or charges ~~and special~~ or enforcement Assessment which the Homeowners' Association shall from time to time fix and establish in accordance with terms hereinafter set forth. All such Assessments, together with interest thereon from the date due at the rate of fifteen percent (15%) per annum and costs of collection thereof including attorney's fees, shall be a charge on the Owner's Lot and shall be a continuing lien upon the Lot against which each such Assessment is made. The liability for Assessments may not be avoided by waiver of the use and enjoyment of the Common Open Space Areas, or by abandonment of the Lot against which the Assessment was made. In a voluntary conveyance, the buyer shall be jointly and severally liable with the seller for all unpaid Assessments against the latter for his share of the Homeowner Expenses up to the time of such voluntary conveyance without prejudice to the rights of the buyer to recover from the seller the amounts paid by the buyer therefor.

**12.02 EFFECTIVE DATE OF LIEN.** Notwithstanding the foregoing, a lien for unpaid Assessments shall only be effective from and **after** the time of recording in the Public Records of Manatee County, Florida, a claim of lien stating the description of the Lot, the name of the Lot Owner, the amount due and the date when due, and the lien shall continue in effect until all sums secured by the lien shall have been fully paid.

**12.03 PURPOSE OF ASSESSMENTS.** The Assessments levied by the Homeowners' Association shall be used to promote the health, safety, welfare and recreation of the residents **of the** Project, and in particular for effectuating the purposes of the Association from time to time, including but not limited to those set forth in **Articles VI and X** above. In addition, the Assessments shall be used to pay the Homeowners' Association costs of taxes, insurance, labor, equipment, materials, management, maintenance, utilities and supervision of the Common Areas and any other areas within the Project which are of common benefit to the Owners, as well as for such other **permissible** activities undertaken by the Homeowners' Association.

**12.04 ANNUAL ASSESSMENTS.** The annual Assessment, including **funds** for special improvement projects, shall be determined on a yearly basis by the Board of Directors of the Homeowners' Association. Assessments **shall** be payable in advance at such times as the Board of Directors shall determine.

**12.05 DATE OF COMMENCEMENT OF ASSESSMENTS.**

(A) The Assessments on each Lot shall commence on the closing of the sale of such Lot by the Developer or Builder to an Owner. Assessments shall be prorated and paid in advance on the closing date based upon the remaining days in the applicable Assessment period. In addition to any Regular and Special Assessments which may be due and payable, each Lot shall be charged with a Supplemental Assessment in the amount of \$250.00, which shall only be paid one-time per each Lot, the Supplemental Assessment shall be paid in advance on the closing date of the first conveyance of each Lot from the Developer or Builder to an Owner.

(B) Prior to the Turnover Date, Declarant (which term shall, for the purposes **of this**

Section, include any affiliate of Declarant so designated by Declarant) shall not be obligated for, nor subject to any Regular Assessment for, any Lot which it may own, nor shall it be responsible for any Special Assessment except those to which Declarant shall consent in writing.

(C) In consideration of such exemption Declarant shall be responsible for paying the difference between (i) the Association's expenses of operation together with approved reserves (which reserves shall not be assessed for three years after the date this Declaration is recorded in the public records), otherwise to be funded by Regular, Neighborhood and Special Assessments and (ii) the amount received from Owners other than Declarant in payment of the Regular, Neighborhood and Special Assessments levied against such Owner's Lots (the "Deficiency"). The Deficiency shall not include any reserves for replacement, operating reserves, depreciation reserves, capital expenditures or Supplemental Assessments for compliance, services or improvement.

(D) Declarant may at any time give written notice to the Association that it is withdrawing its obligation to fund the Deficiency, effective not sooner than sixty (60) days after such notice, whereupon, Declarant shall waive its right to total exemption from Regular and Supplemental Assessments. Sixty (60) days after the giving of such notice or sixty (60) days after the Turnover Date, whichever first occurs, each Lot owned by Declarant shall thereafter be assessed at 100% of the Regular and Supplemental Assessment level established for Lots owned by Members other than the Declarant; provided, however, Declarant shall continue not to be responsible for any reserve for replacements, operating reserves, depreciation reserves, capital expenditures or Supplemental Assessments for compliance, services or improvements not consented to by Declarant. All such Assessments shall be prorated for the remaining months of the then current fiscal year, if applicable. Declarant's Assessment shall be only for those Lots subject to this Declaration. Upon transfer of title of a Lot owned by Declarant, the Lot shall then be assessed in the amount otherwise established for Lots owned by owners other than the Declarant, prorated as of and commencing with the month following the date of transfer of title.

**12.06 ASSESSMENT APPORTIONMENT.** The Owner(s) of each Lot shall bear their prorata share of all Assessments, whether annual, special or otherwise, which is levied by the Board of Directors of the Homeowners' Association for all general Assessments based on the number of Lots subject to such Assessment. Additionally, the Owners of each Club Home Lot shall bear their prorata share of all Club Home Maintenance Assessments, whether annual, special or otherwise, which are levied by the Board of Directors of the Homeowners' Association for all general Assessments based on the number of Club Home Lots subject to such Assessment.

**12.07 ENFORCEMENT OF ASSESSMENT LIEN.** In the event a Lot Owner fails to pay any sums, charges or Assessments required to be paid to the Homeowners' Association within thirty (30) days from their due date, the Homeowners' Association, acting on its own behalf or through its manager or agent, may:

(A) Foreclose the lien encumbering said Lot in the same manner provided for the foreclosure of mortgages by the *Florida Statutes*, or

(B) Bring an action at law or in equity against the Lot Owner personally obligated to pay such Assessment without waiving the lien securing the same, or

(C) Maintain such other and further action as may be permissible by the laws of the State of Florida to recover the full amount of the unpaid Assessment.

12.08 **REGULAR ASSESSMENTS.** The amount and time of payment of Regular Assessments shall be determined by the Board pursuant to the Articles and By-Laws after giving due consideration to the current maintenance, operational and other costs and the future needs of the Association. Regular Assessments may include amounts established for reserves. Not later than **thirty (30)** days prior to the beginning of each fiscal year, the Board shall estimate the total Common Expenses to be incurred for the fiscal year and the amount of the Regular Assessment to be paid by each Owner to defray such cost. Written notice of the annual Regular Assessment shall be sent to every Owner. Each Owner shall thereafter pay to the Association his Regular Assessment in such **installments** and upon such due dates as may be established by the Board.

12.09 **CLUB HOME MAINTENANCE ASSESSMENTS.** In addition to any other Assessments described in this **Article XII** which may be charged to all Lot Owners, each Club Home Lot Owner shall pay Club Home Maintenance Assessments. The amount and time of payment of Club Home Maintenance Assessments shall be determined by recommendation of **the committee** selected pursuant to Section **10.04 (B)** above after said committee giving due consideration to the current maintenance, operational and other costs and the **future** needs of the Club Home Lots. Club Home Maintenance Assessments may include amounts established for reserves for Club Home Lots. Not later than thirty (30) days prior to the beginning of each fiscal year, the Board shall estimate the total Common Expenses to be incurred for the fiscal year and the amount of the Club Home Maintenance Assessment to be paid by each Owner to defray such cost. Written notice of the annual Club Home Maintenance Assessment shall be sent to every Club Home Lot Owner. Each Club Home Lot Owner shall thereafter pay to the Association his Club Home Maintenance Assessment in such **installments** and upon such due dates as may be established by the Board upon recommendation by the said committee. For the purpose of Club Home Lot landscaping and maintenance, the Board upon recommendation by said **committee**, may **also** levy Supplemental Assessments, Special Assessments and Improvement Assessments in accordance with the general provisions set forth in **Article XII**, Sections **12.10, 12.11 and 12.12** herein, however any such Assessment levied to benefit the Club Home Lots shall be exclusively the expense of the Club Home Lot Owners and shall be apportioned only as to and between the appropriate Club Home Lot Owners.

**12.10 SUPPLEMENTAL ASSESSMENTS.** If the Board shall determine that the Regular, and any Supplemental Assessments, for the current year are, or will become, inadequate to meet all Common Expenses for any reason, it shall determine the approximate **amount** of such inadequacy and make a Supplemental Assessment against each Owner and Lot, specifying the date or dates when due. A Supplemental Assessment may be added to and paid with installments of the Regular Assessment, or be otherwise payable as determined by the Board. Each owner shall pay to the Association a Supplemental Assessment for that Owner's pro-

rata share of the construction of each Neighborhood Marina, as defined in Article VI, Section 6.15. The pro-rata share shall be each Owner's pro-rata percentage of the Association Slips' (as defined in Article VI, Section 6.15), pro-rata share of the cost **of the** construction of the applicable Neighborhood Marina. The Supplemental Assessment shall be due and payable upon the closing of the purchase of a Lot by an Owner from the Developer or Builder; provided however, if the applicable Neighborhood Marina is not constructed by the date of such closing, the Supplemental Assessment shall be due upon construction thereof and assessment by the Association. Each Neighborhood Marina may be constructed in phases, with the Supplemental Assessment also phased.

**12.11 SPECIAL ASSESSMENTS.** Special Assessments shall be levied by the Board against a Lot to reimburse the Association for costs incurred in bringing an Owner or his Lot into compliance with this Declaration, or for any other charges designated as a Special Assessment in this Declaration, Articles, By-Laws or Association rules.

**12.12 IMPROVEMENT ASSESSMENT.** In addition to Regular, Supplemental and Special Assessments, the Association may levy in any calendar year an Assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, improvement, acquisition or replacement of a described improvement to the Association Property, including the **fixtures** and personal property related thereto (hereinafter, "Improvement Assessment"). Provided, however, that all such Assessments must be approved by either: (a) the Owners of not less than **two-thirds (2/3)** of the Lots; (b) by at least a majority **of the** votes entitled to be cast by regular Members; or (c) during the time it has the right to control the Association, by the Declarant. All amounts collected as Improvement Assessments may only be used for capital improvements and shall be deposited by the Board in a separate account to be held in trust for such purposes. Said **funds** shall not be **commingled** with any other **funds of the** Association and shall be deemed a contribution to the capital account of the Association by the Members.

**12.13 SERVICE ASSESSMENTS.** **If the** Association undertakes to provide materials or services which benefit individual Lots, but which can be accepted or not by the Owner, such as cable television service, contracting in bulk for repairs, **services**, materials or maintenance or other similar procedures, then the amount paid or incurred by the Association on **behalf of** the Owner accepting or subscribing to such material or service shall be a form of Assessments known as Service Assessments against **such** Owner and Lot. The Owner will be deemed to have agreed to such Assessments by subscribing, requesting or accepting such material or service.

**12.14 COSTS: ATTORNEYS' FEES.** In any action, either to foreclose its lien or to recover from said Lot Owner, the Homeowners' Association shall have the right to recover interest, Court costs and a reasonable attorney's fee, including any fees incurred on appeal, it may incur in collecting the Assessment **from** the Lot Owner, which shall be added to the amount of any Assessment due. Failure by the Homeowners' Association to bring such action in any instance shall not constitute a waiver of the rights created herein. No Lot Owner may waive or otherwise escape liability for Assessments by non-use of the Common Areas or abandonment of his Lot.

**12.15 SUBORDNATION OF LIEN.** Where a mortgagee of a first mortgage of record or other purchaser obtains title to a Lot as a result of foreclosure of the first mortgage, or where a **first** mortgagee accepts a deed to said Lot in lieu of foreclosure, such acquirer of title and its successors and assigns shall not be liable for Assessments pertaining to such Lot which became due prior to acquisition of title as a result of the foreclosure, or acceptance of such deed in lieu of foreclosure, unless such Assessment is secured by a claim of lien for Assessment that is recorded prior to the recording of the foreclosed mortgage. The holder of a first mortgage or other purchaser **acquiring** title to a Lot as a result of foreclosure or a deed in lieu of foreclosure may not, during the period of its ownership of such Lot, whether or not such Lot is unoccupied, be excused from the payment of Assessments coming due during the period of such ownership. As used herein, the term "**first mortgage**" shall not include a purchase money mortgage given by a buyer to a seller upon acquisition of title to a Lot.

**12.16 RESERVES.** The Association may, but shall not be required to, establish reserve accounts **funded from** Regular Assessments in reasonable amounts and in such categories as are **determined** by the Board for deferred maintenance and repair, emergency repairs as a result of any casualty, recurring periodic maintenance or initial cost of any new service to be **performed** by the Association. All amounts collected as a reserve shall be deposited or invested by the Board in a separate Reserve Account to be held in trust for the purposes for which such **funds** are collected, and shall not be **commingled** with other operating funds of the Association. Reserves shall be deemed a contribution to the capital account of the Association by the Members.

**12.17 RESERVES FOR MAINTENANCE OF CLUB HOME LOTS.** The Association may, but shall not be required to, establish reserve accounts **funded from** Regular Club Home Maintenance Assessments in reasonable amounts and in such categories as are determined by the Board, and the CH Class A Members, for deferred maintenance and repair, emergency repairs as a result of any casualty, recurring periodic maintenance or initial cost of any new service to be performed by the Association. All amounts collected as a reserve shall be deposited or invested by the Board in a separate Reserve Account to be held in trust exclusively for Club Home Lots and the purposes for which such **funds** are collected, and shall not be **commingled** with other operating **funds** of the Association, and specifically any Reserve amounts collected exclusively for landscaping of Club Home Lots **shall** be used for no other purpose. Reserves **shall** be deemed a contribution to the capital account of the Association by the Members.

**12.18 NO OFFSETS.** All Assessments shall be payable in the amount specified and no offsets shall be permitted for any reason, including without limitation, a claim that the Association is not properly exercising its responsibilities and authorities as provided in this Declaration.

**12.19 BUDGET.** The Association shall approve a budget for the assessment of operations of the Homeowners' Association, which the Association believes is adequate to meet anticipated requirements. This Project is part of a larger Development which is a very unique community, sharing a Harbor with other uses within the Development. The **Declarant** has used its best efforts to predict the costs of operating the Association and the Master Association and have reflected such costs in

the proposed preliminary budget. However, and inevitably, some expenses may be missed and may become a budgetary item in the future.

### ARTICLE XIII

#### INSURANCE AND RECONSTRUCTION

**13.01 INSURANCE BY ASSOCIATION.** The Association shall obtain and continue in effect as a Common Expense the following types of insurance:

(A) Comprehensive policy of public liability insurance covering the Association Property with limits to be approved by the Board, covering claims for personal injury and/or Property damage, such coverage to include protection against water damage liability, liability for non-owned and hired automobiles and liability for Property of others and such other risks as shall customarily be covered with respect to similar developments and risks, which policy shall contain a "severability of interest" endorsement or the equivalent, which shall preclude the insurer from denying the claim of an Owner because of negligent acts or omissions of the Association or other Owners.

(B) A policy of fire and casualty insurance with extended coverage for the full replacement value of all Improvements to the Association Property, as shall be determined annually by the Board. The Association shall likewise insure tangible personal property owned by it.

(C) If applicable, Workers' Compensation Insurance in an amount sufficient enough to meet the requirements of Florida law.

(D) Such other insurance in such other amounts and coverage as the Board shall from time to time determine to be appropriate and desirable.

**13.02 OWNER'S INSURANCE.** Each Owner of an improved Lot shall be responsible for obtaining and maintaining in effect all casualty and liability insurance with respect to such Owner's Lot as the Owner may from time to time determine. The Association shall not obtain any such insurance on behalf of an Owner, nor shall the Association insure the Lots in any manner.

**13.03 DESTRUCTION OF IMPROVEMENTS .** In the event of partial or total destruction of Improvements to the Association Property, it shall be the duty of the Association to restore and repair the same to its former condition as promptly as practical. The proceeds of any insurance maintained pursuant hereto shall be used for such purpose, subject to the prior rights of any mortgagee whose interest maybe protected by said policy. If the proceeds of such insurance are insufficient to repair, restore or replace such damaged Improvements, the Board shall initiate an Improvement Assessment and submit same to a vote of the Members in accordance with this Declaration. Any reserves for deferred maintenance of damaged or destroyed Improvements may also be used in such repair, replacement or reconstruction. If an Improvement Assessment is necessary in order to enable the Association to reconstruct such Improvements, and if same is not approved in accordance with this

Declaration, then upon approval of three quarters of the Owner of the Lots, the Board shall cause the Association Property to be cleared and landscaped for park or open space purposes, and the cost thereof shall be paid for with the insurance proceeds. If any excess insurance proceeds remain, the Board may place same in a special improvement fund, or add them to the general funds of the Association, or a combination thereof.

(A) In the event any Dwelling Unit upon a Lot shall be substantially damaged or destroyed, it shall be the obligation of the Owner of such Lot to repair, rebuild or reconstruct the Improvements as soon after such casualty as may be practical, but no later than six (6) months after the destructive event. All such repair, replacement and reconstruction shall require Architectural Review as provided herein.

(B) Notwithstanding damage to or destruction of the Improvements to a Lot, the Owner of the same shall **remain** liable to the Association for all Assessments in connection with such Lot. Such liability shall continue unabated, even though such Lot is not fit for occupancy, and even though such Improvements are not reconstructed. In addition to liability for other Assessments, such Lot may be liable for Special Assessments in connection with said Lot, including those in accordance with this Section.

(C) As soon as practical after damage or destruction, the Lot Owner shall cause to be removed all debris and portions of the Improvements that cannot be preserved for incorporation into the replacement structure. All dangerous conditions shall be removed and/or abated immediately. All debris **shall** be removed from the Lot no later than thirty (30) days after the date upon which the casualty occurs.

(D) A Lot Owner shall, within thirty (30) days of the date of the casualty, **notify** the Board in writing of his intention to rebuild or reconstruct. Failure so to notify shall be deemed evidence of such Owner's intention not to rebuild. Such Owner shall initiate Architectural Review within ninety (90) days of such notification, and shall commence rebuilding or reconstruction within sixty (60) days after final approval and prosecute same to completion. If for any reason the Lot Owner does not notify, initiate Architectural Review, commence or diligently pursue rebuilding or reconstruction within the time limits established herein, then he shall be deemed to have elected not to rebuild and the Association shall have the rights and duties hereinafter specified. **An** Owner may at any time notify the Association in writing of his election not to rebuild.

(E) If an Owner elects not to rebuild the Improvements, or is deemed to have so elected under the provisions of this Section, then such Owner shall be obligated at his expense to remove all portions of the Improvements remaining, except underground utility lines, which shall be secured. The Owner shall cause to be removed all parts of the Improvements then remaining, including the slab and foundation. The Owner shall provide fill and install sod so that the unit shall thereupon give the appearance of a landscaped open space. Such clearing and the restoration of the Lot shall be completed not later than thirty (30) days after the date upon which the Owner elects or is deemed to have elected not to rebuild.

(F) If an Owner fails to comply with any of the provisions of this Section, then the Association may perform such acts as are the responsibility of the Owner and the cost of same shall be treated initially as a Common Expense, but charged against the Lot Owner as a Special Assessment.

(G) Upon written application of an Owner, any of the time periods set forth in this Section may be extended by the Board for good cause.

(H) The duties of the Association hereunder shall be performed by the Board.

#### ARTICLE XIV

#### RESALE AND LEASING RESTRICTIONS

In order to maintain the Project as a non-transient development, no Owner, other than Declarant, may lease, and no lessee may sublease, his Dwelling Unit except in accordance with this Section. All references herein to leases shall be deemed to also include applicable subleases, and lessees to include sublessees. Any lease must be for the Owner's entire residence (including all appurtenances thereto).

(A) **Term of Lease.** The lease of a Club Home shall be for a term of not less than thirty (30) days, with no more than three such leases in any one calendar year, and the lease of an Estate Home shall be for a term of not less than seven (7) months.

(B) **Form of Lease and Approval.** ~~All~~ leases shall be in the form promulgated by the Association from time to time, or in the absence of such a form, on such form of lease as is submitted to the Association and approved thereby, which approval the Association may withhold in its sole discretion. The Lessor and Lessee shall also promptly supply to the Association such additional information as it may reasonably require in connection with its determination of whether or not to grant its approval and shall pay a review fee to the Association of \$75.00 or such amount as set by the Board from time to time, for each application for approval of a lease.

Within thirty (30) days of its receipt of the lease, forms and all requested additional information, the Association shall notify the involved Owner, in writing, of its approval or disapproval of the proposed lease/lessee. The Association may condition its approval on the making of reasonable modifications to the lease or on such other matters as the Association may deem appropriate.

(C) **Contents and Standards of Lease Agreement.** The minimum standards for the approval of a lease shall be:

1. The lease shall provide that the lessee (and his family, agents, guests and invitees) shall comply with all provisions of this Declaration and all applicable

restrictions, rules and regulations of the Association;

2. The lease shall provide that the Owner and lessee shall jointly and severally indemnify the Association and all other Owners for any negligent or intentional acts or omissions of the lessee committed within the Development;
3. The lease shall provide that it may be terminated by the Association upon not more than seven (7) days, prior written notice to the Owner and lessee for the Owner's or lessee's failure to comply with the provisions of this Declaration (including, but not limited to, Article VII hereof) and all restrictions, rules and regulations of the Association;
4. The Owner or lessee, as they between themselves may decide, shall deliver to the Association a security deposit in an amount equal to the first month's rental due under the lease from which the Association may deduct the costs of any repairs or extraordinary maintenance necessitated by the acts or omissions of the lessee without waiving any of its other rights arising therefrom, the balance to be returned to the Owner or lessee, as appropriate, within thirty (30) days of the termination or expiration of the lease and the vacating of the residence by the lessee;
5. Such other standards as the Association may from time to time adopt.

Nothing herein contained or done by an Owner, lessee or the Association shall be deemed to establish a landlord-tenant or the principal-agent relationship between the Association and the Owner or lessee, the sole purpose of the requirements of this Section being to ensure the compliance of all parties with this Declaration and applicable restrictions, rules and regulations including, without limitation, the protection of Lots, residences and Common Areas.

**(D) Estoppel Certificate Required for Transfer of Interest.** No Owner may lease, sell or convey his interest in a Lot unless all sums due the Association shall be paid in full and an estoppel certificate in recordable form to such effect shall have been received by the Owner. If all such sums shall have been paid, the Association shall deliver such certificate within ten (10) days of a written request therefor. The Owner requesting the certificate shall pay to the Association a reasonable sum, not to exceed \$50.00, to cover the costs of examining records and preparing the certificate.

## ARTICLE XV

### HURRICANE, WIND AND FLOOD DISCLOSURES AND REGULATIONS

The Master Association shall provide to the Homeowners' Association and Owners a document providing notice that Riviera Dunes is located in an area having potential hurricane and flooding hazards and containing information including evacuation procedures, emergency procedures,

the necessity for Flood Insurance in addition to standard homeowner policies, property loss mitigation strategies including elevation, construction of safe rooms, and window protection. The Homeowners' Association shall ensure distribution of the document to all Owners. In its Association newsletters, the Homeowners' Association shall include information as necessary to promote awareness of hurricane flooding hazards, preparedness and hazard mitigation.

During hurricanes and other high velocity wind threats, each Owner shall be responsible for following all safety precautions that may be issued or recommended by the National Hurricane Center, National Weather Service, the Association or any other applicable agency. If an Owner plans to be absent during the hurricane season, such Owner must prepare the Structures located on his Lot, including but not limited to his Dwelling Unit, and secure or remove, as appropriate, any personal property prior to his departure in accordance with the standards established by the Board of Directors of the Association (or in the absence thereof, with all due care), designate a responsible firm or individual to care for his Lot, including the Structures and personal property thereon, should there be a hurricane or other storm, and furnish the Association with the name(s), address and telephone number of such firm or individual. Such firm or individual shall be subject to the approval of the Association. The Owner shall be liable for any and all damages caused to the Common Areas or other property of other Owners for such Owner's improper preparation or failure of removal, as the case may be, of personal property from around his Lot for hurricanes and other storms. Notwithstanding anything contained herein to the contrary, the Association may also levy fines in accordance with the rules and regulations if the Owner fails to abide by the provisions of this paragraph. Notwithstanding the right of the Association to enforce the foregoing requirements, the Association shall not be liable to any Owner or other person or entity for any damage to persons or property caused by an Owner's failure to comply with such requirements.

## ARTICLE XVI

### GENERAL PROVISIONS

#### **16.01 AMENDMENT.**

(A) Developer reserves the right to amend, modify, or rescind such parts of this Declaration as it, in its sole discretion, deems necessary and appropriate so long as it is a Class B member of the Homeowners' Association, without the joinder of, consent of or notice to Lot Owners.

(B) After Developer ceases to be a Class B member of the Homeowners' Association, the Board of Directors and the Members of the Homeowners' Association may modify or amend this Declaration if notice of the proposed change is given in the notice of the meeting at which such action will be considered. An amendment may be proposed either by the Board of Directors or by not less than ten percent (10%) of the "voting representatives" as such term is defined in the By-Laws. Unless otherwise provided, the resolution adopting a proposed amendment must bear the approval of (1) not less than two-thirds (2/3) of the Board of Directors and two-thirds (2/3) of the "voting representatives" who cast their vote; or (2) not less than seventy percent (70%) of the "voting

representatives" who cast their vote; however, in no case shall a resolution be adopted by less than fifty-one percent (51%) of the total of the "voting representatives." Directors and Members not present at the meeting considering the amendment may express their approval, in writing, given before such meeting to an officer of the Homeowners' Association, in accordance with the By-Laws.

(C) Any amendment of these documents which affects the permitted surface water management system, including the water management portions of the Common Areas, must have the prior approval of SWFWMD and the City, and if indicated in the applicable permit, the prior approval of DEP.

(D) An amendment, other than amendments made by the Developer, shall be evidenced by a certificate certifying that the amendment was duly adopted and include the recording data identifying the Declaration, which certificate shall be executed by the proper officers of the Homeowners' Association in the same formality required for the execution of a deed. Amendments by Developer must be evidenced in writing, but a certificate of the Homeowners' Association is not required. Any and all amendments shall become effective only when properly recorded in the Public Records of Manatee County, Florida.

(E) No provision of these protective covenants that affect the City's right of entry on the common open spaces of the Project shall be amended without prior consent of the City.

**16.02 DURATION.** The protective covenants, conditions, easements and restrictions set forth in this Declaration shall be covenants running with the land and shall be binding upon all parties and all persons having an interest in any portion of the land lying and being within the Project, for a period of twenty-five (25) years from the date this Declaration is recorded among the Public Records of Manatee County, Florida after which time the same shall be automatically extended for successive periods of twenty-five (25) years, unless terminated in accordance with the terms of this Declaration.

**16.03 TERMINATION.** This Declaration may only be terminated upon written consent of ninety percent (90%) of all of the "voting representatives" in the Homeowners' Association, which written consent must be duly recorded among the Public Records of Manatee County, Florida, subject, however to any prior governmental approval required by the Code, as may be amended from time to time. Notwithstanding anything to the contrary herein contained, so long as the Developer holds any Lot in the Project for sale in the ordinary course of business, this Declaration shall not be terminated without its consent.

**16.04 ENFORCEMENT.** In addition to the enforcement provisions otherwise contained in this Declaration, the Developer, the Homeowners' Association or any Lot Owner shall have the right to proceed at law or in equity against any person or persons or other legal entities violating or attempting to violate any of the provisions set forth in this Declaration or to recover damages for such violations and failure by the Homeowners' Association of any Lot Owner to enforce any provision set forth therein shall in no way be deemed a waiver of the right to do so thereafter.

**16.05 INCORPORATION OF DECLARATION.** Any and all deeds conveying a Lot or any portion of the Project shall be conclusively presumed to have incorporated therein all of the terms, conditions and provisions of this Declaration whether or not such incorporation is specifically set forth by reference in such deed, and acceptance of the grantee of such deed shall be conclusively deemed to be an acceptance by such grantee of all the terms and conditions of this Declaration.

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

**16.07 SEVERABILITY.** Invalidation of any one of these covenants, restrictions, conditions or easements by Judgement or Court Order shall in no way effect any other provision, which shall remain in full force and effect.

**16.08 BINDING EFFECT.** This Declaration shall be binding upon and inure to the benefit of the Developer, the Declarant, the Homeowners' Association, and each of the Lot Owners, their respective heirs, personal representatives, successors, assigns and grantees and any and all persons claiming by, through or under any of said parties. The Homeowners' Association is a party to this Declaration so as to assume the obligations and responsibilities set forth herein.

**16.09 EFFECTIVE DATE.** This Declaration shall become effective upon recordation of this Declaration in the Public Records of Manatee County, Florida.

## ARTICLE XVII

### MASTER ASSOCIATION

**17.01 PROJECT SUBJECT TO MASTER DECLARATION.** The Project is subject to all of the terms and provisions of the Master Declaration.

**17.02 MASTER ASSOCIATION.** Each Lot Owner is also a member in the Master Association. For purposes of voting in the Master Association, each Lot is entitled to one (1) vote, which vote shall be cast in accordance with the provisions of the Master Declaration and its exhibits.


The Master Association has the authority to levy assessments against Lots in accordance with the Master Declaration, and has a lien against such Lots for all assessments so levied. Collection of such assessments shall be in accordance with the provisions of the Master Declaration and its exhibits.

Certain modifications and improvements within the Project and Lots must be approved by the "ACC" (as such term is defined in the Master Declaration) in accordance with the provisions of the Master Declaration and its exhibits.


IN WITNESS WHEREOF, W.C. Rivera Partners, L.C., a Florida limited liability company,

First Dartmouth Homes, A Florida general partnership and Homes of Riviera Dunes Homeowners' Association, Inc., a Florida corporation not-for-profit, have caused this Declaration of Covenants, Conditions, Easements and Restrictions of Homes of Riviera Dunes to be executed the day and year first above written.

Signed, Sealed and Delivered  
in the presence of

  
CHRIS L. CURBELLO

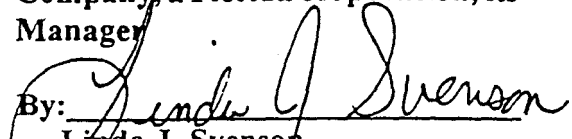
Printed name of witness

  
BJORN SVENSON

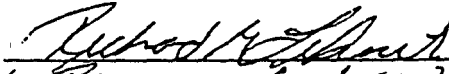
Printed name of witness

W.C. Riviera Partners, L.C., a Florida  
limited liability company

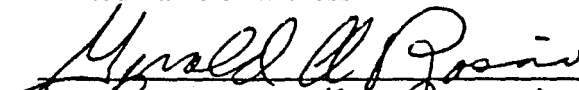
By: Riviera Dunes Resorts Management  
Company, a Florida corporation, its  
Manager

By:   
Linda J. Svenson  
Its President

First Dartmouth Homes, a Florida general  
partnership


  
EDWARD G. LEHNERT

Printed name of witness

  
GERALD A. ROSCIO

Printed name of witness

By: Dartmouth Development I, Inc., a  
Florida corporation, a partner:

By:   
FRANK S. MATHIS  
Its PRESIDENT

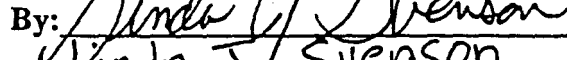
Homes of Riviera Dunes Homeowners'  
Association, Inc., a Florida corporation

  
CHRIS L. CURBELLO

Printed name of witness

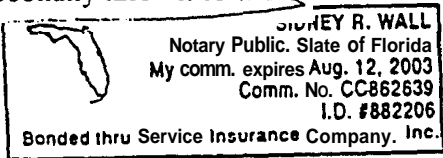
  
BJORN SVENSON

Printed name of witness

By:   
Linda J. Svenson  
printed name/  
Its President

STATE OF FLORIDA  
COUNTY OF MANATEE :

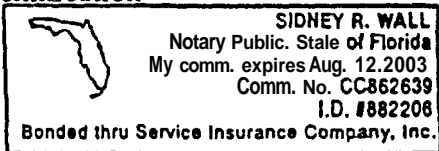
The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of January, 2000 by Linda J. Svenson, as President of Riviera Dunes Resorts, Inc., a Florida corporation, Manager of W.C. Riviera Partners, L.C. a Florida limited liability company, on behalf of the company. She is personally known to me or has produced for identification \_\_\_\_\_



Notary Public  
(SIDNEY R. WALL)  
Printed Signature of Notary  
My Commission Expires: 8-12-03

STATE OF FLORIDA  
COUNTY OF MANATEE :

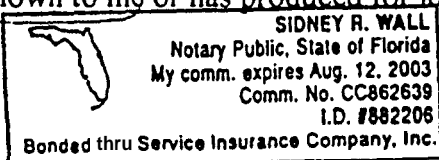
The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of January, 2000 by FRANK S. MAGGIO as PRESIDENT of Dartmouth Development I, Inc., a Florida corporation, as a partner of First Dartmouth Homes, a Florida general partnership, on behalf of the partnership and the corporation. He/She is personally known to me or has produced for identification \_\_\_\_\_



Sidney R Wall  
Notary Public  
(SIDNEY R. WALL)  
Printed Signature of Notary  
My Commission Expires: 8-12-03

STATE OF FLORIDA  
COUNTY OF MANATEE :

The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of January, 2000, by LINDA J. SVENSON as the PRESIDENT of Homes of Riviera Dunes Homeowners' Association, Inc., a Florida corporation not-for-profit. He/She is personally known to me or has produced for identification \_\_\_\_\_



Sidney R Wall  
Notary Public  
(SIDNEY R. WALL)  
Printed Name of Notary

My Commission Expires: 8-12-03

Prepared by:

Caleb J. Grimes, Esquire  
GRIMES GOEBEL GRIMES HAWKINS  
& GLADFELTER, P.A.  
P. O. Box 1550  
1023 Manatee Avenue West  
Bradenton, FL 34205  
941-748-0151

U:\Leslie\riviera dunes, Homes-Neighborhood Declaration 9\lhg\January 13,2000 (2:14PM)

## Exhibit "A"

LEGAL DESCRIPTION

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 13, TOWNSHIP 34 SOUTH,  
 RANGE 17 EAST, MANATEE COUNTY, FLORIDA, THENCE N  $89^{\circ}36'47''$  W,  
 ALONG THE SOUTH LINE OF SAID SECTION 13, A DISTANCE OF 1492.3'  
 FEET TO THE INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY OF 12TH  
 AVENUE EAST FOR A POINT OF BEGINNING, SAID POINT LYING ON THE ARC  
 OF A CURVE CONCAVE SOUTHEASTERLY, WHOSE RADIUS POINT LIES  
 S  $85^{\circ}31'48''$  E; THENCE SOUTHERLY, ALONG THE EASTERLY RIGHT-OF-WAY  
 OF 12TH AVENUE EAST AND THE ARC OF SAID CURVE TO THE LEFT, HAVING  
 A RADIUS OF 117.00 FEET, THROUGH A CENTRAL ANGLE OF  $04^{\circ}28'12''$ . A  
 DISTANCE OF 9.13 FEET TO A POINT OF TANGENCY; THENCE S  $00^{\circ}00'00''$  E,  
 ALONG SAID EASTERLY RIGHT-OF-WAY, A DISTANCE OF 69.56 FEET; THENCE  
 N  $90^{\circ}00'00''$  W, A DISTANCE OF 50.00 FEET TO THE WESTERLY RIGHT-OF-WAY  
 OF SAID 12TH AVENUE EAST; THENCE N  $00^{\circ}00'00''$  E, ALONG SAID WESTERLY  
 RIGHT-OF-WAY, A DISTANCE OF 36.58 FEET; THENCE N  $89^{\circ}24'00''$  W, A  
 DISTANCE OF 141.54 FEET; THENCE N  $00^{\circ}04'33''$  E, A DISTANCE OF 220.68 FEET,  
 THENCE N  $89^{\circ}58'32''$  W, A DISTANCE OF 1308.83 FEET, THENCE N  $00^{\circ}01'28''$  E,  
 A DISTANCE OF 290.83 FEET; THENCE S  $89^{\circ}58'32''$  E, A DISTANCE OF 535.00  
 FEET; THENCE N  $00^{\circ}01'28''$  E, A DISTANCE OF 320.44 FEET TO A POINT OF  
 CURVATURE OF A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 20.00  
 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT,  
 THROUGH A CENTRAL ANGLE OF  $89^{\circ}58'32''$  A DISTANCE OF 31.41 FEET TO A POINT  
 OF TANGENCY, THENCE N  $90^{\circ}00'00''$  E, A DISTANCE OF 17.51 FEET; THENCE  
 N  $00^{\circ}01'28''$  E, A DISTANCE OF 66.01 FEET TO THE SOUTHERLY RIGHT-OF-WAY OF  
 HABEN BLVD, THENCE S  $89^{\circ}44'49''$  E, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE,  
 A DISTANCE OF 351.77 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE  
 SOUTHERLY, HAVING A RADIUS OF 858.00 FEET; THENCE EASTERLY ALONG THE  
 ARC OF SAID CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF  $20^{\circ}35'30''$ ,  
 A DISTANCE OF 308.36 FEET TO A POINT OF REVERSE CURVATURE OF A CURVE  
 CONCAVE NORTHERLY, HAVING A RADIUS OF 942.00 FEET; THENCE EASTERLY  
 ALONG SAID SOUTHERLY RIGHT-OF-WAY AND THE ARC OF SAID CURVE TO THE  
 LEFT, THROUGH A CENTRAL ANGLE OF  $20.46'09''$ . A DISTANCE OF 341.46 FEET TO  
 A POINT OF TANGENCY, THENCE S  $89^{\circ}55'28''$  E, ALONG THE SOUTHERLY RIGHT-  
 OF-WAY OF HABEN BOULEVARD AND THE EASTERLY EXTENSION THEREOF, A  
 DISTANCE OF 121.44 FEET; THENCE S  $00^{\circ}04'33''$  W, A DISTANCE OF 562.78 FEET;  
 THENCE S  $45^{\circ}00'00''$  W, A DISTANCE OF 88.85 FEET TO A POINT OF CURVATURE OF  
 A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 129.65 FEET, THENCE  
 SOUTHWESTERLY, ALONG THE EASTERLY RIGHT-OF-WAY OF 12TH AVENUE EAST  
 AND THE ARC OF SAID CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF  
 $19^{\circ}13'52''$ , A DISTANCE OF 43.52 FEET TO A POINT OF REVERSE CURVATURE OF A  
 CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 175.00 FEET, THENCE  
 SOUTHWESTERLY ALONG SAID EASTERLY RIGHT-OF-WAY AND THE ARC OF SAID  
 CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF  $19^{\circ}13'52''$ , A DISTANCE OF  
 58.74 FEET TO A POINT OF COUPOUNO CURVATURE OF A CURVE CONCAVE  
 SOUTHEASTERLY, HAVING A RADIUS OF 117.00 FEET, THENCE SOUTHERLY ALONG  
 SAID EASTERLY RIGHT-OF-WAY AND THE ARC OF SAID CURVE TO THE LEFT,  
 THROUGH A CENTRAL ANGLE OF  $40^{\circ}31'48''$  A DISTANCE OF 8276 FEET TO THE  
 POINT OF BEGINNING, BEING AND LYING IN SECTIONS 13 AND 24, TOWNSHIP 34  
 SOUTH, RANGE 17 EAST, MANATEE COUNTY, FLORIDA.

## Exhibit "B"

H00000001311 0

## ARTICLES OF INCORPORATION

## OF

**HOMES OF RIVIERA DUNES HOMEOWNERS' ASSOCIATION, INC.**

The undersigned incorporator, a resident of the State of Florida of the age of majority, hereby makes, subscribes, acknowledges and files with the Secretary of the State of Florida these Articles of Incorporation for the purpose of forming a corporation not for profit in accordance with the laws of the State of Florida.

ARTICLE I. NAME AND ADDRESS

The name of this corporation is **HOMES OF RIVIERA DUNES HOMEOWNERS' ASSOCIATION, INC.**, hereafter sometime called the "Association". The principal office and mailing address of this corporation shall be 590 Haben Boulevard, Palmetto, Florida **34221**.

ARTICLE II. PURPOSE AND POWERS OF THE ASSOCIATION

This Association does not contemplate pecuniary gain or profit to the members thereof. **This** Association is **formed** specifically to promote health, safety and general welfare of the residents within all or any portion of the residential development known as the **HOMES OF RIVIERA DUNES**, a subdivision, lying and being in Manatee County, Florida, ("Homes of Riviera Dunes") and any additional phases of Homes of Riviera Dunes as may be brought within the jurisdiction of **the** Association by proper filing and recording in the Public Records of Manatee County, Florida of a Supplement to the Declaration of Covenants, Conditions and Restrictions (hereinafter referred to as "Declaration") pertaining to any additional phase; and the Association is formed generally to perform any legal act or to **perform** any legal duty or obligation as may legally be **permitted** by the **Florida Not For Profit Corporation Act, Florida Statutes, chapter 617 (1999)**.

Notwithstanding anything in the above to the contrary, no part of the net earnings of the Association shall inure to the benefit of **any** member within the meaning of Section **501(c)(7) of the Internal Revenue Code of 1986**, nor shall the Association engage in any other activity prohibited by such section, nor shall the Association engage in any other activity or **perform** any act in violation of any provision governing such **tax** exempt organizations as determined by the federal revenue **laws**. The Association's amount of earnings, if any, is not to be taken into account in any manner for the purpose of determining whether there should be a rebate of any assessment paid or the amount of the rebate.

ARTICLE III. MEMBERSHIP

Every person or legal entity who holds legal title of record to a present fee simple interest in any residential lot being a **part of HOMES OF RIVIERA DUNES**, and every person or legal entity who holds legal title of record to a fee simple interest in

additional phase of HOMES OF RIVIERA DUNES provided that such phase has come under **the** jurisdiction of the Association by the recordation of the Declaration or an appropriate amendment thereto among the Public Records of Manatee County, Florida (a "Lot Owner"), shall be a member for each such Lot owned by such person or legal entity. Membership shall be appurtenant to and may not be separated **from** ownership of any Lot that is subject to the provisions of the Declaration.

#### ARTICLE IV. CORPORATE EXISTENCE

The Association shall commence upon the filing of these Articles of Incorporation **with** the Secretary of State, State of Florida. The Corporation shall exist perpetually.

#### ARTICLE V. VOTMG RIGHTS

The Association shall have two (2) classes of voting membership. The voting rights of each class of membership shall be set forth, and be governed by the bylaws of the Association.

#### ARTICLE VI. BOARD OF DIRECTORS

The business **affairs** of this Association shall be managed by a Board of Directors. The method of election or appointment of the Board of Directors shall be set forth, and be governed by the bylaws of the Association.

#### ARTICLE VII. OFFICERS

The Association shall have the officers described in its bylaws who shall be elected or appointed at such time and for such terms as is provided in the bylaws.

#### ARTICLE VIII. SUBSCRIBERS

The name and residence address of the subscriber to these **Articles** of Incorporation is as follows:

Linda J. Svenson  
590 Haben Boulevard  
Palmetto, Florida 34221

#### ARTICLE IX. INITIAL REGISTERED OFFICE AND AGENT

The street address of the initial registered **office** of the Association is 1023 Manatee **Avenue** West, Bradenton, **Florida** 34205. The name of the initial registered agent of the Association is **Caleb** J. Grimes, Esquire.

#### ARTICLE X. AMENDMENT TO ARTICLES

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amended ~~From~~ time to time.

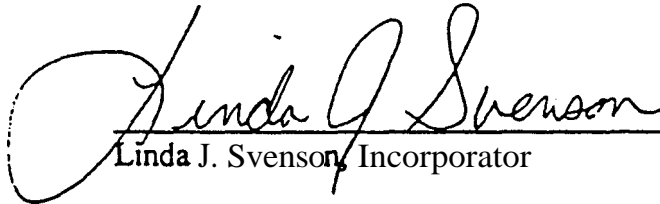
ARTTICLE XI. INDEMNITY

The corporation shall indemnify any person made a party or threatened to be a party to **any** threatened, pending or contemplated action, suit or proceeding, pursuant to the provisions contained in the bylaws of the corporation.

ARTICLE XII. INTERPRETATION

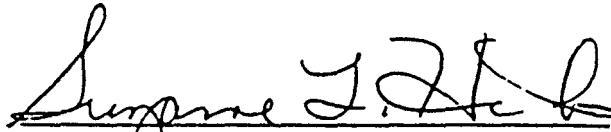
Express reference is hereby made to the terms and provisions of the Declaration where necessary to interpret, construe, and **clarify** the provisions of these Articles. In subscribing and filing these Articles, it is the intent of the undersigned that the provisions of these Articles shall be consistent with the provisions of the Declaration, and these Articles shall be interpreted, construed and applied so **as** to avoid inconsistencies or conflicting results.


IN WITNESS WHEREOF, I, the undersigned Incorporator, for the purposes of forming a corporation not for profit pursuant to the laws of the State of Florida, do make, subscribe and acknowledge this certificate and I have hereunto duly executed the foregoing Articles of **Incorporation** to be filed in the office of the Secretary of State of Florida, for the purposes therein set forth.

  
Linda J. Svenson, Incorporator

STATE OF FLORIDA :  
COUNTY OF **MANATEE** :

**THE FOREGOING INSTRUMENT** was acknowledged before me this 10<sup>th</sup> day of January, 2000 by Linda J. Svenson, who **has** produced \_\_\_\_\_ as identification or who is personally known to me.

  
NOTARY PUBLIC

 Suzanne L. Hicks  
My Commission CC795323  
Expires December 6, 2002

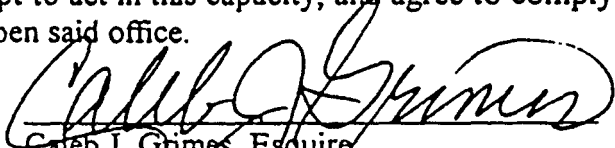
**CERTIFICATE DESIGNATING PLACE OF BUSINESS OR DOMICILE FOR  
SERVICE OF PROCESS WITH THIS STATE, NAMED AGENT  
UPON WHOM PROCESS MAY BE SERVED**

Pursuant to Chapter 617.0501, Florida Statutes, the following is submitted in compliance with said Act:

**HOMES OF RIVIERA DUNES HOMEOWNERS' ASSOCIATION, INC.**, desiring to organize under the laws of the State of Florida, with its principal office as indicated in the Articles of Incorporation at 590 Haben Boulevard, Palmetto, Florida 34221 has named **Caleb J. Grimes**, Esquire, with registered office at **1023** Manatee Avenue West, Bradenton, Florida 34205 as its agent to accept service of process within this State.

**ACKNOWLEDGMENT**

Having been named to accept service of process for the above stated corporation, at place designated in this **Certificate**, I hereby accept to act in this capacity, and agree to comply with the provisions of said Act relative to keeping open said office.

  
Caleb J. Grimes, Esquire  
Registered Agent

DATED this the 9<sup>th</sup> day of January, 2000.