

**IN THE CIRCUIT COURT OF THE 15<sup>TH</sup>  
JUDICIAL CIRCUIT IN AND FOR  
PALM BEACH COUNTY, FLORIDA**

**CASE NO.:**

**VALENCIA ISLES HOMEOWNERS  
ASSOCIATION, INC., A Florida  
Non Profit Corporation,**

**Plaintiff,**

**vs.**

**RICHARD DORR, MARIA ARELLANO,  
JOHANNA FONSECA AND JOHANNA  
FONSECA AS PARENT AND LEGAL  
GUARDIAN OF JANE DOE A CHILD  
UNDER THE AGE OF 4 YEARS OLD,**

**Defendants.**

\_\_\_\_\_ /

**COMPLAINT FOR INJUNCTIVE RELIEF**

The Plaintiff, VALENCIA ISLES HOMEOWNERS ASSOCIATION, INC. (hereinafter "ASSOCIATION"), a Florida not-for-profit corporation, hereby files this Complaint for Injunctive Relief against the Defendants, RICHARD DORR, MARIA ARELLANO, JOHANNA FONSECA AND JOHANNA FONSECA AS PARENT AND LEGAL GUARDIAN OF JANE DOE A CHILD UNDER THE AGE OF 4 YEARS OLD (hereinafter collectively "DEFENDANTS"), and in support thereof alleges:

1. This is an action for injunctive relief pursuant to the Declaration of Covenants, Restrictions and Easements for Valencia Isles, as amended (hereinafter "Declaration"), governing the use and enjoyment of the Valencia Isles 55 and Over Community, and is therefore within the subject matter jurisdiction of this Court.

2. ASSOCIATION is a Florida not-for-profit corporation organized pursuant to Chapter 617, Florida Statutes, does business in and has its principal place of business in Palm Beach County, Florida.

3. The activities giving rise to this action occurred in Palm Beach County, Florida, thus making venue in Palm Beach County, Florida appropriate.

4. Defendant, RICHARD DORR, MARIA ARELLANO and JOHANNA FONSECA (hereinafter "OWNERS"), are the record title owner of certain real property located at 6511 Malta Drive, Boynton Beach, FL 33437 (hereinafter "The Lot") by virtue of a Warranty Deed executed on July 13, 2021 and recorded on July 19, 2021 at Official Records Book 32700, Page 1385 of the Palm Beach County Public Records, more fully described as follows:

Lot 165, of VALENCIA ISLES-PLAT ONE, according to the Plat thereof, as recorded in Plat Book 84, at Page 3, of the Public Records of Palm Beach County, Florida.

Parcel Identification No.: 00-42-45-33-13-000-1650

A true and accurate copy of the Warranty Deed is attached hereto and incorporated herein as Exhibit "A."

5. Defendant, JOHANNA FONSECA AS PARENT AND LEGAL GUARDIAN OF JANE DOE A CHILD UNDER THE AGE OF 4 YEARS OLD (hereinafter "UNDER AGE OCCUPANT") is a natural person over 18 years of age, is *sui juris*, and has or might have some claim or demand in The Lot by virtue of possession, whether by tenancy from the record title holder or by mere possession only.

6. All conditions precedent to the filing of this cause of action have occurred, have been waived, or have been performed.

7. ASSOCIATION is a Florida Homeowners Association pursuant to Chapter 720, Florida Statutes, and is responsible for the operation and maintenance of the Valencia Isles community in Palm Beach County, Florida.

8. All of the property in Valencia Isles is subject to the Declaration, which is recorded at Official Records Book 10659, Page 887 *et seq.*, of the Public Records of Palm Beach County, Florida, and the Bylaws of Valencia Isles Homeowners Association, Inc., (“By-Laws”), which are recorded at Official Records Book 10659, Page 960 *et seq.* of the Public Records of Palm Beach County, Florida, reference to which is hereby made. True and accurate copies of the Declaration and the By-Laws, as amended, are attached hereto and incorporated herein as Exhibits “B” and “C”, respectively.

#### **GENERAL ALLEGATIONS**

9. In accordance with the terms of the Declaration, ASSOCIATION is charged with the administration and maintenance of the common areas and improvements of the Valencia Isles Community, and the enforcement of the Covenants and Restrictions contained in the Declaration.

10. Section 720.305(1), Florida Statutes, governing obligations of members, provides, in pertinent part, as follows:

Each member and the member’s tenants, guests, and invitees and each association, are governed by, and must comply with, this chapter, the governing documents of the community, and the rules of the Association.

11. Pursuant to the Declaration and Florida Law, DEFENDANTS are obligated to comply with the terms and covenants of the Declaration.

12. Chapter 720.305, Florida Statutes, governing remedies, provides, in pertinent part, as follows:

Actions at law or in equity, or both, to redress alleged failure or refusal to comply with these provisions may be brought by the association or by any member . . . The prevailing party in any such litigation is entitled to recover reasonable attorneys fees and costs. (Emphasis added).

13. Article X, Section 2 of the Declaration regarding Occupancy of Home, provides in pertinent part, as follows:

The Fair Housing Amendments Act of 1988 (Public Law 100-430, approved September 13, 1988) (“Fair Housing”), which became effective in March, 1989, and as amended effective December 31, 1995, provides that communities cannot reject families with children. However, the Fair Housing Act provides that a community is exempt from this prohibition if (a) at least eighty percent (80%) of the units are occupied by at least one (1) person fifty-five (55) years of age or older per unit; and (b) the community has published and adheres to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five (55) years of age or older . . . For so long as such provisions of the Fair Housing Act are in effect, Declarant intends that Valencia Isles will be a community which falls within this exemption to the Fair Housing Act (the “Exemption”) and may prohibit families with children nineteen (19) years of age or younger from residing in Valencia Isles . . . (Emphasis added).

14. Article X, Section 2 (E) of the Declaration regarding Children provides, in pertinent part, as follows:

As long as Valencia Isles falls within the Exemption, no children nineteen (19) years of age or younger shall be permitted to reside in any of the Homes, except for a period of time not to exceed a total of sixty (60) days per calendar year. In addition, children shall be allowed to play only in those areas of Valencia Isles designated from time to time by the Association. (Emphasis added).

15. JOHANNA FONSECA is a record title owner of The Lot and is under the age of fifty-five (55) years old but over the age of 19.

16. At the time JOHANNA FONSECA acquired title to The Lot on July 13, 2021, UNDER AGE OCCUPANT had not yet been born.

17. Prior to the birth of UNDER AGE OCCUPANT, JOHANNA FONSECA resided at The Lot with RICHARD DORR, MARIA ARELLANO, both of whom are individuals over the age of fifty-five (55).

18. At some point in time after giving birth, JOHANNA FONSECA began residing at The Lot with UNDER AGE OCCUPANT, without informing the ASSOCIATION.

19. Article I(C)(1) of the Valencia Isles Homeowners Association, Inc., Rules and Regulations, titled “**Responsibility**,” provides as follows:

With respect to compliance with the Governing Documents, including these Rules and Regulations, a Homeowner will be held responsible for the actions of their family members, guests, tenants, contractors and other persons for whom he/she is responsible, as well as for the actions of persons over whom he/she exercises control and supervision.

20. Article I(C)(2) further requires that:

Each Resident must provide, and keep current within thirty (30) days of any change, information regarding those persons in residence at their home including:

- a. Names
- b. Relationship to Homeowner or primary Resident
- c. Dates of birth
- d. License plate numbers of registered vehicles.

21. Despite these express requirements, OWNERS failed to notify the ASSOCIATION when UNDER AGE OCCUPANT began residing at The Lot. OWNERS did not provide the name, date of birth, relationship, or any other required information related to UNDER AGE OCCUPANT within the required thirty (30) days—or at any time thereafter—in direct violation of the

ASSOCIATION's Rules and Regulations and the Governing Documents. UNDER AGE OCCUPANT has been residing on the Lot in excess of 60 days.

22. After discovering that a child under the age of nineteen (19) was residing at The Lot, the ASSOCIATION issued multiple pre-suit demand letters to the OWNERS, advising that OCCUPANT's continued residency violates the Declaration and demanding that alternative housing arrangements be made.

23. The OWNERS failed and refused to respond adequately to the ASSOCIATION's pre-suit demand letters

24. OWNERS have allowed a child under the age of four (4) years old to permanently reside at The Lot.

25. OCCUPANT has resided in The Lot more than sixty (60) calendar days per the 2025 calendar year.

26. OWNERS have materially violated the foregoing provisions of the Declaration by: (1) allowing a child under the age of four (4) to reside on The Lot permanently.

27. JOHANNA FONSECA has materially violated the foregoing provisions of the Declaration by: (1) occupying The Lot with her child who is under the age of four (4).

28. Article XIV, Section 3 of the Declaration, as amended, regarding enforcement, provides, in pertinent part, as follows:

The covenants and restrictions herein contained may be enforced by Declarant (so long as Declarant holds an equitable or legal interest in any Lot and/or Home) the Association, any Owner and any Institutional Mortgagee holding a mortgage on any portion of the Property in any judicial proceeding seeking any remedy recognizable at law or in equity, including damages, injunction or any other form of relief against any person, firm or entity violating or attempting to violate any covenant, restriction or provision

hereunder. The failure by any party to enforce any such covenant, restriction or provision herein contained shall in no event be deemed a waiver of such covenant, restriction or provision or of the right of such party to thereafter enforce such covenant, restriction or provision. The prevailing party in any such litigation shall be entitled to all costs thereof including, but not limited to, Legal Fees.

29. On July 29, 2024, the ASSOCIATION, through its Counsel, sent a Pre-Suit Mediation demand Letter to OWNERS, notifying them of the above referenced violations and demanding compliance with the Declaration. A true and accurate copy of the demand letter sent to OWNERS are attached hereto and fully incorporated herein as Exhibit "D".

30. OWNERS have failed to comply with the demands of ASSOCIATION, as referenced above and refused to mediate and is therefore not entitled to an award of prevailing party attorneys fees and costs in the unlikely event they prevail.

**COUNT I**  
**INJUNCTIVE RELIEF**

31. ASSOCIATION repeats, re-alleges and reavers the allegations contained in Paragraphs 1 through 30, above as if fully set forth herein.

32. ASSOCIATION uniformly enforces the provisions of the Declaration cited herein.

33. The unjustified and unauthorized actions of DEFENDANTS have and will continue to cause ASSOCIATION irreparable harm by virtue of the following consequences:

A. If the actions of DEFENDANTS are not enjoined, ASSOCIATION will be unable to enforce the provisions of the Declaration uniformly.

B. If the actions of DEFENDANTS are not enjoined, ASSOCIATION will be compromised in its ability to act in the best interest of its Membership.

C. If the actions of DEFENDANTS are not enjoined, confusion and doubt will be created among the Membership and other parties as to the authority of ASSOCIATION to enforce its recorded Covenants.

D. If the actions of DEFENDANTS are not enjoined, the peaceful possession and proper enjoyment of other residents in the Valencia Isles Community will be jeopardized.

34. The foregoing instances of irreparable harm caused by DEFENDANTS are continuing in nature and there exists a reasonable probability of such harm continuing in the future.

35. Based upon the foregoing allegations, the ASSOCIATION has no adequate remedy at law for the actions taken by DEFENDANTS and money damages alone are insufficient to address the harm caused by DEFENDANTS.

36. The ASSOCIATION has a clear legal right to seek enforcement of the Declaration pursuant to Section 720.305, Florida Statutes, and the terms and conditions of the Declaration and By-Laws and has substantial likelihood of success on the merits on the claims alleged herein.

37. An injunction, if granted, will serve the public interest by requiring DEFENDANTS to take actions consistent with their legal obligations pursuant to Section 720.303 Florida Statutes, and the Declaration and By-Laws.

38. ASSOCIATION is obligated to pay undersigned Counsel a reasonable fee for Counsel's services in connection herewith, and such fees are recoverable pursuant to the provisions of Section 720.303, Florida Statutes, and Article XIV, Section 3 of the Declaration, as amended, demand for which is hereby made.

**WHEREFORE**, Plaintiff, VALENCIA ISLES HOMEOWNERS ASSOCIATION, INC., respectfully requests that this Court grant the following relief:

- A. Issue a temporary injunction against OWNERS, requiring OWNERS to comply with the Declaration by immediately removing the underage child and JOHANNA FONSECA from The Lot, and Order the child and JOHANNA FONSECA removed from The Lot forthwith;
- B. Issue a permanent injunction against OWNERS, requiring OWNERS to comply with the Declaration by immediately removing the underage child and JOHANNA FONSECA from The Lot, and Order the underaged child and JOHANNA FONSECA removed from The Lot forthwith;
- C. Determine that ASSOCIATION is the prevailing party in this matter;
- D. Grant ASSOCIATION its costs and reasonable attorneys' fees pursuant to Section 720.303, Florida Statutes, and Article XIV, Section 3 of the Declaration; and
- E. Grant such other and further relief as this Court deems just and proper, either at law or in equity.

Submitted this 30<sup>th</sup> day of April, 2025.

BY: /s/ Lauren T. Schwarzfeld  
**LAUREN T. SCHWARZFELD, ESQ.**  
Florida Bar Number.: 92027  
Email: [lschwarzfeld@kbrlegal.com](mailto:lschwarzfeld@kbrlegal.com)  
**KAYE BENDER REMBAUM, P.L.**  
1200 Park Central Blvd. South  
Pompano Beach, Florida 33064  
(954) 928-0680 - Phone  
(954) 772-0319 - Fax

**THIS INSTRUMENT PREPARED BY  
AND RETURN TO:**

**Shore to Shore Title, LLC**

L. E. Mitrani  
6111 Broken Sound Parkway NW, #350  
Boca Raton, FL 33487

Property Appraisers Parcel I.D. #: 00-42-45-33-13-000-1650

\_\_\_\_\_  
SPACE ABOVE THIS LINE FOR RECORDING DATA

**THIS WARRANTY DEED**, made this 13 day of **July, 2021**, by **Robert B. Kroner and Marlene Kroner, husband and wife**, whose post office address is **5 Orchard St, Belvidere, NJ 07823-2625** herein called the Grantors, to **Richard Joseph Dorr and Maria Alexandra Arellano, husband and wife, and Johanna Micaela Fonseca, a single woman**, whose post office address is **6511 Malta Drive, Boynton Beach, FL 33437** hereinafter called the Grantees:

*(Wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)*

**W I T N E S S E T H:** That the grantors, for and in consideration of the sum of TEN AND 00/100'S (\$10.00) Dollars and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee all that certain land situate in Palm Beach County, State of Florida, viz.:

**Lot 165, of VALENCIA ISLES-PLAT ONE, according to the Plat thereof, as recorded in Plat Book 84, at Page 3, of the Public Records of Palm Beach County, Florida.**

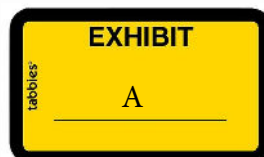
**Subject to easements, restrictions and reservations of record and to taxes for the year 2021 and thereafter.**

**EXHIBIT "A" Certificate of Approval of Sale  
attached hereto and made a part hereof**

**TOGETHER**, with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

**TO HAVE AND TO HOLD**, the same in fee simple forever.

**AND**, the grantors hereby covenant with said grantees that the grantors are lawfully seized of said land in fee simple; that the grantors have good right and lawful authority to sell and convey said land, and hereby warrant the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2020.



IN WITNESS WHEREOF, the said grantors have signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

*Amy Kwiatek*  
Witness #1 Signature  
Amy Kwiatek  
Witness #1 Printed Name

*Robert B. Kroner*  
Witness #2 Signature  
Robert B. Kroner  
Witness #2 Printed Name

*Catherine T. O'Connell*  
Witness #3 Signature  
CATHERINE T. O'CONNELL  
Witness #3 Printed Name

STATE OF NEW JERSEY  
COUNTY OF WARREN

THE FOREGOING INSTRUMENT was acknowledged before me by means of  physical presence or  online notarization, this 27<sup>th</sup> day of July, 2021, by Robert B. Kroner, who  is personally known to me or  have produced DRIVER LICENSE as identification.

SEAL

**Catherine T O'Connell**  
**Notary Public**  
**New Jersey**  
**My Commission Expires 7-11-26**

*Catherine T. O'Connell*  
Notary Public  
CATHERINE O'CONNELL  
Printed Notary Name

My Commission Expires:

IN WITNESS WHEREOF, the said grantors have signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

Sydney Fowler  
Witness #1 Signature  
Sydney Fowler  
Witness #1 Printed Name

Marlene Kroner  
Marlene Kroner

Christopher J. Otto  
Witness #2 Signature  
Christopher J. Otto  
Witness #2 Printed Name

STATE OF Michigan  
COUNTY OF Saginaw

THE FOREGOING INSTRUMENT was acknowledged before me by means of [] physical presence or [] online notarization, this 13 day of July, 2021, by Marlene Kroner, who [] is personally known to me or [] have produced Drivers License as identification.

SEAL

SYDNEY FOWLER  
Notary Public, State of Michigan  
County of Saginaw  
My Commission Expires Jul. 06, 2026  
Acting in the County of Saginaw

Sydney Fowler  
Notary Public  
Sydney Fowler  
Printed Notary Name  
S.F. 7-13

My Commission Expires: 7-6-2026



## CERTIFICATE OF APPROVAL

This is to certify that Richard Dorr and Maria Alexandra Arellano have been approved by the Valencia Isles Homeowners Association, Inc., a Florida Corporation, not for profit, as the purchaser of the following described real property in Palm Beach County, Florida. Such approval has been given pursuant to the provision of the Declaration of Covenants and all exhibits attached to the Declaration of Covenants and any amendment there to:

**Address:**  
**6511 Malta Drive**  
**Boynton Beach, FL 33437**

**Previous Owner: Robert and Marlene Kroner**  
**Today's Date: 06/23/2021**

A handwritten signature in black ink, appearing to read 'Robert Goldstein', written over a horizontal line.

Robert Goldstein  
President  
Valencia Isles Board of Directors

A handwritten signature in black ink, appearing to read 'Herb Hardbrod', written over a horizontal line.

Herb Hardbrod  
Vice President  
Valencia Isles Board of Director

Return to: (enclose self-addressed stamped envelope)

Name: *Jill Miller* ✓

Address:

P.O. Box 1900  
Fort Lauderdale, Florida 33302

This Instrument Prepared by:

Mark F. Grant, Esquire  
Ruden, McClosky, Smith  
Schuster & Rossen, P.A.  
200 East Broward Boulevard  
15th Floor  
Fort Lauderdale, Florida 33301

SPACE ABOVE THIS LINE FOR PROCESSING DATA

SPACE ABOVE THIS LINE FOR PROCESSING DATA

**DECLARATION OF COVENANTS, RESTRICTIONS  
AND EASEMENTS FOR VALENCIA ISLES**

NOT A Certified COPY

PTA: 320427:2



ARTICLE I

DEFINITIONS ..... 1

Section 1. "ADDITIONAL PLAT" ..... 1

Section 2. "ADDITIONAL PROPERTY" ..... 1

Section 3. "AMENDMENT(S)" ..... 2

Section 4. "ARCHITECTURAL CONTROL COMMITTEE" or "COMMITTEE" ..... 2

Section 5. "ARTICLES" ..... 2

Section 6. "ASSESSMENT" ..... 2

Section 7. "ASSOCIATION" ..... 2

Section 8. "ASSOCIATION PROPERTY" ..... 2

Section 9. "BOARD" ..... 3

Section 10. "BYLAWS" ..... 3

Section 11. "COMPLETED LOT" ..... 3

Section 12. "COMPLETED LOT OWNER" ..... 3

Section 13. "COUNTY" ..... 3

Section 14. "DECLARANT" ..... 3

Section 15. "DECLARATION" ..... 3

Section 16. "DIRECTOR" ..... 3

Section 17. "DOMINANT LOT" ..... 3

Section 18. "DRAINAGE SYSTEM" ..... 3

Section 19. "HOME" ..... 3

Section 20. "IMPROVEMENT" ..... 4

Section 21. "INCOMPLETE LOT" ..... 4

Section 22. "INCOMPLETE LOT OWNER" ..... 4

Section 23. "INSTITUTIONAL MORTGAGE" ..... 4

Section 24. "INSTITUTIONAL MORTGAGEE OR INSTITUTIONAL LENDER" ..... 4

Section 25. "INTEREST" ..... 4

Section 26. "LAKE LOT" ..... 4

Section 27. "LEGAL FEES" ..... 4

Section 28. "LOT" ..... 5

Section 29. "MEMBERS" ..... 5

Section 30. "NOTICE AND HEARING" ..... 5

Section 31. "OPERATING EXPENSES" ..... 5

Section 32. "OWNER" ..... 5

Section 33. "PLAT" ..... 5

Section 34. "PROPERTY" ..... 5

Section 35. "SERVIENT LOT" ..... 5

Section 36. "SUPPLEMENTAL DECLARATION" ..... 6

Section 37. "TURNOVER DATE" ..... 6

Section 38. "VALENCIA ISLES" ..... 6

Section 39. "VALENCIA ISLES DOCUMENTS" ..... 6

ARTICLE II

DESCRIPTION OF VALENCIA ISLES ..... 6

Section 1. GENERAL PLAN OF DEVELOPMENT ..... 6

Section 2. ASSOCIATION PROPERTY ..... 7  
 Section 3. LAKE LOTS ..... 10  
 Section 4. COSTS ..... 11  
 Section 5. PRIVATE USE ..... 11  
 Section 6. PRIVACY FENCES AND HEDGES ..... 11  
 Section 7. MODEL ROW ..... 12

ARTICLE III

ADDITIONS TO AND WITHDRAWALS FROM THE PROPERTY;  
CONVEYANCE OF ASSOCIATION PROPERTY ..... 12  
 Section 1. ADDITIONS ..... 12  
 Section 2. DESIGNATION OF ADDITIONAL ASSOCIATION PROPERTY ... 12  
 Section 3. DISCLAIMER OF IMPLICATION ..... 12  
 Section 4. ABSENCE OF OBLIGATION ..... 13  
 Section 5. WITHDRAWAL ..... 13  
 Section 6. TITLE TO THE ASSOCIATION PROPERTY ..... 13  
 Section 7. PARKING RIGHTS ..... 14

ARTICLE IV

OWNERS' PROPERTY RIGHTS ..... 14  
 Section 1. OWNERS' EASEMENTS OF ENJOYMENT ..... 14  
 Section 2. DELEGATION OF USE ..... 15  
 Section 3. RECOGNITION OF EXISTING EASEMENTS ..... 15  
 Section 4. EASEMENTS FOR VEHICULAR TRAFFIC ..... 15  
 Section 5. ACCESS EASEMENT ..... 16  
 Section 6. GRANT AND RESERVATION OF EASEMENTS ..... 16  
 Section 7. ASSIGNMENTS ..... 19

ARTICLE V

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION;  
BOARD; DURATION OF THE ASSOCIATION ..... 19  
 Section 1. MEMBERSHIP AND VOTING RIGHTS ..... 19  
 Section 2. BOARD ..... 19  
 Section 3. DURATION OF ASSOCIATION ..... 19

ARTICLE VI

COVENANT TO PAY ASSESSMENTS; ESTABLISHMENT OF LIENS;  
COLLECTION OF ASSESSMENTS; COLLECTION BY DECLARANT;  
CERTAIN RIGHTS OF DECLARANT AND INSTITUTIONAL MORTGAGEES ... 19  
 Section 1. AFFIRMATIVE COVENANT TO PAY ASSESSMENTS ..... 19  
 Section 2. ESTABLISHMENT OF LIENS ..... 20  
 Section 3. COLLECTION OF ASSESSMENTS ..... 21  
 Section 4. COLLECTION BY DECLARANT ..... 21  
 Section 5. RIGHTS OF DECLARANT AND INSTITUTIONAL MORTGAGEES TO  
PAY ASSESSMENTS AND RECEIVE REIMBURSEMENT ..... 22  
 Section 6. CABLE TELEVISION SYSTEM ..... 22  
 Section 7. MONITORED ALARM SYSTEM ..... 22  
 Section 8. CENTRAL IRRIGATION SYSTEM ..... 23

ARTICLE VII

METHOD OF DETERMINING ASSESSMENTS AND ALLOCATION OF ASSESSMENTS ..... 23

Section 1. DETERMINING AMOUNT OF ASSESSMENTS ..... 23

Section 2. ASSESSMENT PAYMENTS ..... 23

Section 3. SPECIAL ASSESSMENTS ..... 24

Section 4. LIABILITY OF OWNERS FOR INDIVIDUAL LOT ASSESSMENTS ..... 24

Section 5. GUARANTEED ASSESSMENT DURING GUARANTEE PERIOD ..... 24

Section 6. DECLARANT'S GUARANTEED ASSESSMENT NOT THE OBLIGATION OF INSTITUTIONAL MORTGAGEES ..... 25

Section 7. WORKING FUND CONTRIBUTION ..... 26

Section 8. WAIVER OF USE ..... 26

ARTICLE VIII

ARCHITECTURAL CONTROL COMMITTEE ..... 26

Section 1. MEMBERS OF THE COMMITTEE ..... 26

Section 2. REVIEW OF PROPOSED CONSTRUCTION ..... 26

Section 3. MEETINGS OF THE COMMITTEE ..... 28

Section 4. NO WAIVER OF FUTURE APPROVALS ..... 28

Section 5. COMPENSATION OF MEMBERS ..... 28

Section 6. INSPECTION OF WORK ..... 28

Section 7. NON-LIABILITY OF COMMITTEE MEMBERS ..... 29

Section 8. VARIANCE ..... 29

ARTICLE IX

MAINTENANCE AND REPAIR OBLIGATIONS ..... 29

Section 1. BY THE ASSOCIATION ..... 29

Section 2. BY THE OWNERS ..... 31

Section 3. DAMAGE TO BUILDINGS ..... 32

ARTICLE X

USE RESTRICTIONS ..... 33

Section 1. ENFORCEMENT ..... 33

Section 2. OCCUPANCY OF HOME ..... 34

Section 3. NUISANCES ..... 35

Section 4. PARKING AND VEHICLE RESTRICTIONS ..... 36

Section 5. NO IMPROPER USE ..... 36

Section 6. LEASES ..... 36

Section 7. ANIMALS AND PETS ..... 36

Section 8. ADDITIONS AND ALTERATIONS ..... 37

Section 9. INCREASE IN INSURANCE RATES ..... 37

Section 10. SLOPES AND TREES ..... 37

Section 11. SIGNS ..... 37

Section 12. TRASH AND OTHER MATERIALS ..... 37

Section 13.	<u>TEMPORARY STRUCTURES</u>	38
Section 14.	<u>OIL AND MINING OPERATIONS</u>	38
Section 15.	<u>SEWAGE DISPOSAL</u>	38
Section 16.	<u>WATER SUPPLY</u>	38
Section 17.	<u>FENCES</u>	38
Section 18.	<u>ANTENNAE</u>	39
Section 19.	<u>DECLARANT EXEMPTION</u>	39
ARTICLE XI	<u>SALES, LEASES AND CONVEYANCES</u>	40
ARTICLE XII	<u>DAMAGE OR DESTRUCTION TO ASSOCIATION PROPERTY</u>	40
ARTICLE XIII	<u>INSURANCE AND CONDEMNATION</u>	41
Section 1.	<u>CASUALTY INSURANCE</u>	41
Section 2.	<u>PUBLIC LIABILITY INSURANCE</u>	41
Section 3.	<u>FIDELITY COVERAGE</u>	42
Section 4.	<u>DIRECTORS' COVERAGE</u>	42
Section 5.	<u>OTHER INSURANCE</u>	42
Section 6.	<u>CANCELLATION OR MODIFICATION</u>	42
Section 7.	<u>FLOOD INSURANCE</u>	42
Section 8.	<u>CONDEMNATION</u>	42
Section 9.	<u>WAIVER OF SUBROGATION</u>	42
ARTICLE XIV	<u>GENERAL PROVISIONS</u>	43
Section 1.	<u>CONFLICT WITH OTHER VALENCIA ISLES DOCUMENTS</u>	43
Section 2.	<u>NOTICES</u>	43
Section 3.	<u>ENFORCEMENT</u>	43
Section 4.	<u>INTERPRETATION</u>	43
Section 5.	<u>SEVERABILITY</u>	43
Section 6.	<u>CERTAIN RIGHTS OF DECLARANT</u>	44
Section 7.	<u>DISPUTES AS TO USE</u>	45
Section 8.	<u>AMENDMENT AND MODIFICATION</u>	45
Section 9.	<u>DELEGATION</u>	46
Section 10.	<u>TERM</u>	46
Section 11.	<u>RIGHTS OF MORTGAGEES</u>	46
Section 12.	<u>APPROVAL OF ASSOCIATION LAWSUITS BY OWNERS</u>	47
Section 13.	<u>COMPLIANCE WITH PROVISIONS</u>	48
Section 14.	<u>SECURITY</u>	48
Section 15.	<u>COVENANT RUNNING WITH THE LAND</u>	49
Section 16.	<u>NO PUBLIC RIGHT OR DEDICATION</u>	49
Section 17.	<u>NO REPRESENTATIONS OR WARRANTIES</u>	49
Section 18.	<u>RECLAIMED WATER</u>	49
Section 19.	<u>PUBLIC THOROUGHFARES</u>	50
Section 20.	<u>ASSOCIATION AND DECLARANT AS ATTORNEY-IN-FACT</u>	50
Section 21.	<u>DECLARANT'S RESERVATION OF RIGHTS</u>	50

**DECLARATION OF COVENANTS, RESTRICTIONS  
AND EASEMENTS FOR VALENCIA ISLES**

THIS DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR VALENCIA ISLES ("Declaration") is made this 23<sup>rd</sup> day of September, 1998 by G.L. HOMES OF BOYNTON BEACH ASSOCIATES IV, LTD., a Florida limited partnership, its successors and assigns ("Declarant"), and is joined in by VALENCIA ISLES HOMEOWNERS ASSOCIATION, INC., a Florida corporation not for profit ("Association").

WHEREAS, Declarant is the owner in fee simple of the real property more particularly described on Exhibit "A" attached hereto and made a part hereof (the "Property");

WHEREAS, Declarant desires to develop a planned community to be known as "Valencia Isles" (as hereinafter defined); and

WHEREAS, in order to develop and maintain Valencia Isles as a planned residential community and to preserve the values and amenities of such community, it is necessary to declare, commit and subject the Property and the improvements now or hereafter constructed thereon to certain land use covenants, restrictions, reservations, regulations, burdens, liens, and easements; and to delegate and assign to the Association certain powers and duties of ownership, administration, operation, maintenance and enforcement; and

WHEREAS, the Association is joining in this Declaration in order to acknowledge its obligations hereunder.

NOW, THEREFORE, in consideration of the premises and covenants herein contained, Declarant hereby declares that the Property shall be owned, held, used, transferred, sold, conveyed, demised and occupied subject to the covenants, restrictions, easements, reservations, regulations, burdens and liens hereinafter set forth, all of which shall run with the Property and any part thereof and which shall be binding upon all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns.

**ARTICLE I  
DEFINITIONS**

The terms used in this Declaration shall be defined as set forth herein unless expressly provided otherwise.

Section 1. "ADDITIONAL PLAT" shall mean the plat of any portion of the Property which is not included in the Plat, if any, and the plat of any Additional Property provided a Supplemental Declaration for such Additional Property is recorded amongst the Public Records of the County. "Additional Plat" shall also mean the replat of all or any portion of the Plat or any other plat of all or any portion of the Property.

Section 2. "ADDITIONAL PROPERTY" shall mean any real property (other than the Property) that may be submitted by Declarant to the terms and provisions of this Declaration by a

Supplemental Declaration which shall be executed by the owner of the Additional Property and need not be joined in by any other person or Owner. No portion of any Additional Property shall be encumbered by this Declaration unless and until such property is added by a Supplemental Declaration by the fee owner thereof. In the event any Additional Property becomes encumbered by this Declaration, then, and only then in such event, the term "Property" as used herein shall also mean the Additional Property.

Section 3. "AMENDMENT(S)" shall mean any and all amendments to this Declaration, all of which shall be consecutively numbered beginning with the "First Amendment to the Declaration of Covenants, Restrictions and Easements for Valencia Isles" and each of which shall be properly adopted pursuant to the terms of the Valencia Isles Documents and recorded in the Public Records of the County provided, however, the failure to so consecutively number such amendments shall not impair their validity hereunder and such amendments to the extent not otherwise numbered will be deemed to have been numbered in chronological order of their appearance in the Public Records of the County. "Amendment(s)" shall also mean any and all amendments to any Supplemental Declaration, as recorded in the Public Records of the County.

Section 4. "ARCHITECTURAL CONTROL COMMITTEE" or "COMMITTEE" shall mean the committee created pursuant to Article VIII hereof.

Section 5. "ARTICLES" shall mean the Articles of Incorporation of the Association which have been filed in the Office of the Secretary of State of the State of Florida, a true copy of which is attached hereto as Exhibit "B" and incorporated herein by this reference, as such Articles may be amended from time to time.

Section 6. "ASSESSMENT" shall mean assessments for which all Owners are obligated to the Association and includes "Individual Lot Assessments" and "Special Assessments" (as such terms are defined in Article VII hereof) and any and all other assessments which are levied by the Association in accordance with the Valencia Isles Documents.

Section 7. "ASSOCIATION" shall mean and refer to VALENCIA ISLES HOMEOWNERS ASSOCIATION, INC., a not-for-profit Florida corporation, its successors and assigns, existing pursuant to the Articles of Incorporation filed in the Office of the Secretary of State of the State of Florida on August 4, 1998, as amended by any amendments thereto, and which Association is responsible for the maintenance, preservation and architectural control of Valencia Isles as provided in this Declaration.

Section 8. "ASSOCIATION PROPERTY" shall mean such portions of the Property which are not included in any Lot, except those areas dedicated to the public by the Plat or Additional Plat, if any, and which are or shall be owned or maintained by the Association, as set forth in this Declaration, for the common use and enjoyment of the Owners within Valencia Isles, together with landscaping and any other Improvements thereon, including, without limitation, all structures, guardhouse(s), the recreational tract(s) as more particularly described in Article II, Section 2(1) hereof, open spaces, private streets, asphalt bike paths, sidewalks, irrigation facilities, decorative street lights, perimeter fence, entry or other lighting, if any, and entrance feature, buffer tracts, monument walls, site walls, retaining walls, fountains, littoral plantings and decorative street signs, but excluding any public utility installations thereon. In addition, such portions of the Property as are declared to be Association Property in any Supplemental Declaration, less whatever portions of

the Property are declared to be withdrawn from the provisions of this Declaration in any Supplemental Declaration, shall be Association Property.

Section 9. "BOARD" shall mean the governing body of the Association.

Section 10. "BYLAWS" shall mean the Bylaws of the Association, which have been or will be adopted by the Board, a copy of which is attached hereto as Exhibit "C" and incorporated herein by this reference, as such Bylaws may be amended from time to time.

Section 11. "COMPLETED LOT" shall mean a Lot on which the construction of any Home has been completed and for which Home a certificate of occupancy or equivalent therefor has been issued by the appropriate governmental agency.

Section 12. "COMPLETED LOT OWNER" shall mean the Owner of a Completed Lot.

Section 13. "COUNTY" shall mean Palm Beach County, Florida.

Section 14. "DECLARANT" shall mean and refer to G.L. Homes of Boca Raton Associates IV, Ltd., a Florida limited partnership, and any successor or assign thereof to which G.L. Homes of Boca Raton Associates IV, Ltd. specifically assigns all or part of the rights of Declarant hereunder by an express written assignment, whether recorded in the Public Records of the County or not. The written assignment may give notice as to which rights of Declarant are to be exercised and as to which portion of the Property. In any event, any subsequent declarant shall not be liable for any default or obligations incurred by any prior declarant, except as may be expressly assumed by the subsequent declarant. An Owner shall not, solely by the purchase of a Home and/or Lot, be deemed a successor or assign of Declarant under the Valencia Isles Documents unless such Owner is specifically so designated as a successor or assign of such rights in the instrument of conveyance or any other instrument executed by Declarant.

Section 15. "DECLARATION" shall mean this instrument as it may be amended from time to time, together with any Supplemental Declaration(s) or Amendments thereto, which may be recorded amongst the Public Records.

Section 16. "DIRECTOR" shall mean a member of the Board.

Section 17. "DOMINANT LOT" shall mean a Lot to which an easement over a Servient Lot created by Article IV of this Declaration is appurtenant (i.e., a Lot owned by an Owner entitled to access to his Lot over certain portions of an adjoining Lot). A Lot may be both a Dominant Lot and a Servient Lot as to different easements created by Article IV hereof, but not as to the same easement.

Section 18. "DRAINAGE SYSTEM" shall mean all structures, including culverts, required to collect and convey rainfall runoff from Valencia Isles to the water management tracts (i.e., "Lakes," as hereinafter defined) and/or canals adjacent to the Property. The Drainage System is located upon and designed to serve the Property. The Drainage System is a private drainage system.

Section 19. "HOME" shall mean a residential dwelling unit constructed within Valencia Isles, which is designed and intended for use and occupancy as a single family residence.

Section 20. "IMPROVEMENT" shall mean all structures or artificially created conditions and appurtenances thereto of every type and kind located within Valencia Isles, including, but not limited to, buildings, walkways, recreation areas and facilities, parking areas, berms, fountains, sprinkler pipes, gatehouses, roads, driveways, fences, retaining walls, underground footers and other foundation supports, stairs, landscaping, hedges, plantings, poles, swings, tennis courts, swimming pools, covered patios, screen enclosures, jogging, bicycling and walking paths, basketball backboards and hoops, signs, site walls, benches, mailboxes, decorative street lights and signs.

Section 21. "INCOMPLETE LOT" shall mean a Lot on which the construction of a Home has not been completed and for which no certificate of occupancy or equivalent therefor has been issued by the appropriate governmental agency.

Section 22. "INCOMPLETE LOT OWNER" shall mean the Owner of an Incomplete Lot.

Section 23. "INSTITUTIONAL MORTGAGE" shall mean a mortgage held by an Institutional Mortgagee on any property within Valencia Isles.

Section 24. "INSTITUTIONAL MORTGAGEE OR INSTITUTIONAL LENDER" shall mean any lending institution owning a first mortgage encumbering any Home or Lot within Valencia Isles, which owner and holder of said mortgage shall either be a bank, life insurance company, federal or state savings and loan association, real estate or mortgage investment trust, building and loan association, mortgage banking company licensed to do business in the State of Florida, or any subsidiary thereof, licensed or qualified to make mortgage loans in the State of Florida or a national banking association chartered under the laws of the United States of America or any "secondary mortgage market institution," including the Federal National Mortgage Association ("FNMA"), Government National Mortgage Association ("GNMA"), Federal Home Loan Mortgage Corporation ("FHLMC") and such other secondary mortgage market institutions as the Board shall hereafter approve in writing; any and all lenders, and the successors and assigns of such lenders, which have loaned money to Declarant and which hold a mortgage on any portion of the Property securing any such loan; any pension or profit-sharing funds qualified under the Internal Revenue Code; the Veterans Administration, the Federal Housing Administration or the Department of Housing and Urban Development or such other lender as is generally recognized in the community as an institutional lender; or Declarant, its successors and assigns. NationsBank, N.A., a national banking association, is hereby specifically declared to be an Institutional Mortgagee since it has loaned money to Declarant, which loan is secured by a mortgage on the Property.

Section 25. "INTEREST" shall mean the maximum nonusurious interest rate allowed by law on the subject debt or obligation, and if no such rates designated by law, then eighteen percent (18%) per annum.

Section 26. "LAKE LOT" shall mean a Lot within Valencia Isles abutting one of the Lakes (as described in Article II hereof).

Section 27. "LEGAL FEES" shall mean reasonable fees for attorney and paralegal services incurred in connection with: (i) negotiation and preparation for litigation, whether or not an action is actually begun, through and including all trial and appellate levels and postjudgment proceedings, and (ii) collection of past due Assessments including, but not limited to, preparation of notices and

liens; and shall also include court costs through and including all trial and appellate levels and postjudgment proceedings.

Section 28. "LOT" shall mean and refer to any parcel of land within Valencia Isles as shown on the Plat or any Additional Plat upon which a Home is permitted to be constructed, together with the Improvements thereon, and any portion of the Property within Valencia Isles that is declared to be a Lot by a Supplemental Declaration and is not subsequently withdrawn from the provisions of this Declaration by a Supplemental Declaration. For purposes of Individual Lot Assessments, a Lot is either a Completed Lot or an Incomplete Lot.

Section 29. "MEMBERS" shall mean and refer to all of the Owners who are also members of the Association, as provided herein.

Section 30. "NOTICE AND HEARING" shall mean written notice and a public hearing before a tribunal appointed by the Board at which the Owner concerned shall have an opportunity to be heard in person or by counsel, at Owner's expense, in the manner set forth in Article X herein.

Section 31. "OPERATING EXPENSES" shall mean the expenses for which Owners are liable to the Association as described in this Declaration and any other Valencia Isles Documents and include, but are not limited to, the costs and expenses incurred by the Association in administering, operating, maintaining, financing, or repairing, but not reconstructing, replacing or improving, the Association Property or any portion thereof and Improvements thereon and all costs and expenses incurred by the Association in carrying out its powers and duties hereunder or under any other Valencia Isles Documents.

Section 32. "OWNER" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot within Valencia Isles, and includes Declarant for as long as Declarant owns fee simple title to a Lot, but excluding therefrom those having such interest as security for the performance of an obligation.

Section 33. "PLAT" shall mean the plat of the Property to be recorded in the Public Records of the County. In the event an Additional Plat is recorded in the Public Records of the County, then the term "Plat" as used herein shall also mean the Additional Plat.

Section 34. "PROPERTY" shall mean and refer to that certain real property heretofore described in Exhibit "A" and such additions thereto as may hereafter be brought within the jurisdiction of this Declaration and/or the Association; provided, however, Declarant reserves the right to withdraw from the provisions hereof, subject to the prior written approval of the Palm Beach County Attorney's Office, such portion or portions of the Property as Declarant from time to time elects, upon the execution by Declarant of a Supplemental Declaration.

Section 35. "SERVIENT LOT" shall mean a Lot within Valencia Isles over which an easement is created by Article IV of this Declaration in favor of a Dominant Lot (i.e., a Lot over certain portions of which the Owner of an adjoining Lot has a right of access). A Lot may be both a Servient Lot and a Dominant Lot as to different easements created by Article IV hereof, but not as to the same easement.

Section 36. "SUPPLEMENTAL DECLARATION" shall mean any instrument executed by Declarant with respect to the Additional Property, if any (provided Declarant is the owner thereof), which, when recorded in the Public Records of the County, shall commit such property to the provisions of this Declaration, and shall be the only method of committing such property to the provisions of this Declaration. A Supplemental Declaration may also add additional restrictions, declare certain properties to be or not to be Association Property, or add properties to or withdraw properties from the Property and the provisions of this Declaration. The Association shall join in the execution of any Supplemental Declaration at the request of Declarant but such joinder shall not be required to make any such Supplemental Declaration effective. The Owners shall not be required to join in the execution of any Supplemental Declaration but shall nevertheless be bound thereby.

Section 37. "TURNOVER DATE" shall mean the date upon which "Class A Members" (as defined in Article V.D.1 of the Articles), including Declarant, shall assume control of the Association and elect the Board, as more particularly described in Article V.D.2 of the Articles.

Section 38. "VALENCIA ISLES" shall mean that planned residential development located in Palm Beach County, Florida, which encompasses the Property, has been approved for eight hundred forty (840) Homes and is intended to comprise eight hundred thirty-one (831) Homes and the Association Property. Valencia Isles will consist of the land set forth in Exhibit "A" attached hereto and made a part hereof and may be expanded by the recording of one or more Supplemental Declaration(s).

Section 39. "VALENCIA ISLES DOCUMENTS" shall mean in the aggregate this Declaration, the Articles and the Bylaws, the Plat, the Additional Plat, if any, and all of the instruments and documents referred to therein, including, but not limited to, any Amendment(s) and Supplemental Declaration(s).

## ARTICLE II DESCRIPTION OF VALENCIA ISLES

Section 1. GENERAL PLAN OF DEVELOPMENT. Valencia Isles comprises the Property encompassing, or which will encompass, Lots and Association Property, as more particularly defined by this Declaration and, in addition, lands which Declarant may add, but shall in no way be obligated to add, by one or more Supplemental Declaration(s). The Property initially declared hereunder is described in Exhibit "A" attached hereto. If fully developed, Valencia Isles is currently planned to be comprised of eight hundred thirty-one (831) Homes and Lots and the Association Property in accordance with this Declaration. However, Valencia Isles is currently approved for eight hundred forty (840) Homes. In addition, Declarant has reserved the right to modify its plan of development of Valencia Isles and to add land to Valencia Isles. Therefore, in the event Declarant modifies its plan of development of Valencia Isles and/or adds land to Valencia Isles, the number of Lots within Valencia Isles may change. Declarant's general plan of development further contemplates that such Homes shall be whatever types of structures Declarant may choose which are in conformance with this Declaration. Declarant's general plan of development of Valencia Isles may also include whatever facilities and amenities Declarant considers in its sole judgment to be appropriate to Valencia Isles.

Additional Property will become a part of Valencia Isles if, and only if, Declarant in its sole discretion adds Additional Property to Valencia Isles by recording a Supplemental

Declaration to such effect. Declarant hereby reserves an easement for ingress and egress and for utilities and drainage over the Property for the benefit of any Additional Property; provided, however, no such easement may be granted upon any portion of the Property upon which a Home exists.

Declarant expressly reserves the right as to the Property to (i) commence construction and development of the Property if and when Declarant desires; (ii) develop the Property upon such timetable as Declarant, in its sole discretion, chooses; and (iii) modify the plan of development of the Property in such manner as it, in its sole discretion, chooses. Nothing contained herein shall be construed as obligating Declarant to construct Valencia Isles according to the present plan of development nor as obligating Declarant to declare any Additional Property to be Property.

Section 2. ASSOCIATION PROPERTY. The Association Property shall consist of the property indicated on the Plat and Additional Plat, if any, as Association Property or as property reserved for or dedicated to the Association. The Association Property shall be used for recreational and social purposes as well as other proper purposes by the Association and the Owners and their family members, guests, invitees and lessees in accordance with the Valencia Isles Documents. Association Property may not be altered, modified, removed or replaced by Owners or their family members, guests, invitees or lessees.

The portions of Valencia Isles described in this Section 2 shall constitute Association Property and shall be used solely in accordance with the covenants impressed upon the Association Property as follows:

(1) Recreation Tracts. Valencia Isles will contain three (3) recreation areas, one containing approximately 7 acres, one containing approximately 1.6 acres and one containing approximately 1.4 acres ("Recreation Tracts"), each of which is designated on the Plat as a Recreation Tract. The Recreation Tracts are proposed to initially include a clubhouse, swimming pool(s), tennis courts and parking. The Recreation Tracts shall be part of the Association Property and shall be used for recreational purposes by the Association, and the Owners and their family members, guests, invitees and lessees. Such portion, if any, of the Recreation Tracts upon which Declarant has constructed or hereafter constructs Improvements shall be kept and maintained for use in a manner consistent with the nature of such Improvements located or to be located thereon. All of the Recreation Tracts shall always be kept and maintained by the Association for recreational uses or beautification and attendant uses (e.g., parking spaces within the Recreation Tracts shall be used for proper purposes by those using the recreational facilities but only while using such facilities), and shall be used for such purposes and not for residential, commercial or industrial construction of any kind. The Recreation Tracts shall be maintained, administered and ultimately owned by the Association.

Declarant reserves the right, but shall not be obligated, to construct additional recreational facilities upon the Recreation Tract(s) and to change the facilities planned for the Recreation Tract(s).

Notwithstanding anything contained herein, neither Declarant nor the Association makes any representations whatsoever to commence, complete or construct any recreational facilities within any specific time period.

Declarant, at its sole discretion, reserves the right to reduce the planned facilities.

The decision as to whether to construct additional recreational facilities, to change the planned facilities, or to reduce the planned facilities and the construction thereof shall be in the sole discretion of Declarant.

(2) Lakes. The "Lakes" are those portions of the Property designated on the Plat as Tracts "L1," "L2," "L3," "L4," "L5," "L6," "L7" and "L8" or designated on the Plat or Additional Plat, if any, as lakes, and shall always be kept and maintained as lakes for water retention, drainage, irrigation and water management purposes in compliance with all applicable governmental and water management district requirements. The Lakes shall be a part of the Association Property and shall be maintained, administered and ultimately owned by the Association. In furtherance of the foregoing, Declarant hereby reserves and grants an easement in favor of the Association throughout all portions of Valencia Isles as may be necessary for the purpose of accessing, maintaining and administering the Lakes, and no Owner shall do any act which may interfere with the performance by the Association of its obligations hereunder.

Water levels in the Lakes may decline significantly at certain times as a result of well field pumpage.

DECLARANT AND THE ASSOCIATION SHALL NOT BE OBLIGATED TO PROVIDE SUPERVISORY PERSONNEL, INCLUDING, BUT NOT LIMITED TO, LIFEGUARDS, FOR THE RECREATION TRACT AND THE LAKES. ANY INDIVIDUAL USING THE RECREATION TRACT AND THE LAKES SHALL DO SO AT HIS OWN RISK AND HEREBY HOLDS DECLARANT AND THE ASSOCIATION HARMLESS FROM AND AGAINST ANY CLAIM OR LOSS ARISING FROM SUCH USE.

EACH OWNER, BY THE ACCEPTANCE OF TITLE TO HIS LOT, ACKNOWLEDGES THAT THE LAKES ARE DEEP AND ARE DANGEROUS.

(3) Streets, Drives, Roads and/or Roadways. The "Streets," "Drives," "Roads" and/or "Roadways" are those portions of the Property designated on the Plat or Additional Plat, if any, as a street, drive, road or roadway, and which are reserved for or dedicated to the Association, but specifically excluding any street or roadway dedicated to the public on the Plat or Additional Plat, if any. The Streets, Drives, Roads and/or Roadways shall be used as private roads by Declarant, the Association and the Owners, their family members, guests, lessees and invitees in accordance with the provisions of this Declaration. The Streets, Drives, Roads and/or Roadways shall be maintained, administered and ultimately owned by the Association. Notwithstanding the foregoing, each Owner shall be responsible for the maintenance, repair and replacement of the driveway serving his Lot, including that portion of the driveway in a Street, Drive, Road and/or Roadway, if any, unless the driveway was damaged by the Association in the fulfillment of its obligations and duties under this Declaration.

(4) Landscaped Areas or Grassed Areas. The "Landscaped Areas" and "Grassed Areas" are those portions of the Property designated on the Plat or Additional Plat, if any, as "OS" tracts or as open space, and are to be used, kept and maintained as such by Declarant, the Association, and the Owners within Valencia Isles, their family members, guests, lessees and

invitees, in accordance with the provisions of this Declaration. The Landscaped Areas and Grassed Areas shall be ultimately owned by the Association and shall be administered and maintained by the Association in accordance with the requirements of the appropriate governmental agencies.

(5) Street Lights. The "Street Lights" and any associated facilities placed within the Property and any street lights and associated facilities placed within public rights of way by agreement between the Association and the public utility responsible therefor, are or shall be installed, repaired, replaced, relocated, maintained and owned by the public utility responsible therefor, but the Association is responsible to pay all fees associated with such installation, repair, replacement and maintenance, and for the furnishing of electricity thereto, at a set rate pursuant to a Street Lighting Agreement entered into or to be entered into with the utility. Nothing in this Declaration shall be construed to require Declarant to install Street Lights within Valencia Isles.

(6) Decorative Street Lights. Declarant reserves the right, but shall not be obligated, to install "Decorative Street Lights" in or near the entranceway and guardhouse to Valencia Isles. The Decorative Street Lights shall be installed, repaired, replaced, relocated, maintained and owned by the Association.

(7) Guardhouse(s), Entranceway(s) and Entry Gate(s). Valencia Isles may include a guardhouse(s) and entry gate(s) installed by Declarant or the Association. Such guardhouse(s), entranceway(s) and/or entry gate(s) shall be deemed Association Property and shall be maintained, repaired or replaced by the Association and the expense thereof shall be included as an Operating Expense. The guardhouse(s), if any, may or may not be staffed, as determined in the sole discretion of the Association. All other portions of the entranceway(s) shall also be owned and maintained by the Association. Neither Declarant nor the Association makes any representations whatsoever as to the security of the premises or the effectiveness of any entry gate(s). All Owners agree to hold Declarant and the Association harmless from any loss or claim arising within the Property from the occurrence of a crime or other act. The Owners acknowledge that the entry gate(s) are designed to deter crime, not prevent it. Notwithstanding anything herein to the contrary, neither Declarant nor the Association makes any representations whatsoever to commence, complete, construct or staff any guardhouse(s) or entry gate(s) within any specific time period.

(8) Buffers. The "Buffers" are those portions of the Property which run along the outer perimeter of the Property, the perimeter of the Recreation Tracts or adjacent to certain Streets, Drives, Roads and/or Roadways, and are designated on the Plat or Additional Plat, if any, as "BT" tracts or as buffers. In order to preserve the aesthetic image of Valencia Isles and to help maximize the Owners' use and enjoyment thereof, no Improvements, landscaping or other additions are permitted within the Buffers without the prior written consent of the Committee (as hereinafter defined) and appropriate governmental agencies, excepting any Improvements, landscaping or other additions made or installed by Declarant, such as, but not limited to, signs, walkways and light poles.

(9) Tree Preserve. The "Tree Preserve" is that portion of the Property which is designated on the Plat as Tract "P" and shall be maintained by the Association as a preservation area for trees and other vegetation.

(10) Drainage System. The Drainage System within Valencia Isles, as shown on the Plat, or Additional Plat, if any, is a private drainage system. The Association shall be responsible

for all costs associated with all cleaning, maintenance, repair and replacement of any portion of the Drainage System necessary to maintain the system in its original condition and use.

The Drainage System is also designed to serve the public roadway known as "Hagen Ranch Road", the future extension of Woolbright Road to the north of the Property and an approximately 7.5 acre parcel located adjacent to the southeast corner of the Property (which parcel is currently use as a nursery). Neither the owners of Hagen Ranch Road, the future extension of Woolbright Road nor the 7.5 acre parcel is obligated to pay any of the costs and expenses associated with the Drainage System.

(11) Right to Add Additional Improvements. Such portions of the Association Property upon which Declarant has constructed, or hereafter constructs, Improvements shall be kept and maintained for use in a manner consistent with the nature of such Improvements located, or to be located, thereon. Declarant reserves the right, but shall not be obligated, to construct additional facilities upon the Association Property. The decision as to whether to construct additional facilities and the construction thereof shall be in the sole discretion of Declarant.

Section 3. LAKELOTS. Notwithstanding anything contained herein to the contrary, and subject to the rights and obligations of the Association to maintain the Lakes as aforesaid for water retention, drainage, irrigation and water management purposes for all of Valencia Isles and the right of the Association to adopt rules from time to time with respect to the use of the Lakes for such purposes, the Lakes shall be reserved for the private use and enjoyment of all Owners, their family members, guests, invitees and tenants, but only in accordance with this Declaration.

Fishing in the Lakes shall be permitted; however, notwithstanding anything contained herein to the contrary, an Owner shall only access the Lakes from the "Lake Maintenance Access Easement" or "Lake Maintenance Easement" shown on the Plat, or Additional Plat, if any, which immediately abuts his Lot. If the Owner's Lot is a Lake Lot ("Lake Lot Owner"). If an Owner is not a Lake Lot Owner, or if a Lake Lot Owner wishes to access a different Lake or another area of the same Lake, access to the Lake shall be exclusively from the Lake Maintenance Access Easement abutting a Landscaped Area or Grassed Area (as defined in Section 2[4] hereof) and such access shall be limited to the portion of the Lake Maintenance Access Easement or Lake Maintenance Easement and lake bank abutting the Landscaped Area or Grassed Area. If no portion of the Lake Maintenance Access Easement or Lake Maintenance Easement and lake bank abuts a Landscaped Area or Grassed Area, Owners other than Lake Lot Owners whose Lots abut the Lake shall not be permitted access to that Lake. In addition, no Owner shall be permitted access to or to fish in any Lake Maintenance Easement or lake bank area which immediately abuts a Lake Lot owned by another.

Lake Lot Owners and their family members, guests, invitees and tenants shall be permitted to operate non-motorized and electric watercraft in the Lakes. No other persons shall be entitled to operate watercraft in the Lakes. Notwithstanding the foregoing, the launching into and removal from a Lake of any permitted non-motorized or electric watercraft by a Lake Lot Owner shall be limited to such Lake Lot Owner's Lake Lot and the Lake Lot Owner shall only access the Lakes from the Lake Maintenance Easement or Lake Maintenance Access Easement which immediately abuts such Lake Lot Owner's Lake Lot. Watercraft shall be limited in size to eighteen feet (18').

No planting, fencing or other Improvements or additions to the Landscaped Area or Grassed Area surrounding the Lake and outside the Lot is permitted. No installation of sand or other materials intended to simulate a beach shall be permitted along the Lake banks or within the Lake Maintenance Easement or Lake Maintenance Access Easement or rear yards of Lake Lots. Swimming and the operation of motorized watercraft, other than electrically operated watercraft, in the Lakes are prohibited. Watercraft and trailers shall not be stored on the Lake banks or the Lake Maintenance Easement. Only watercraft which are permitted to be used within the Lakes of Valencia Isles may be stored within the backyards of Lake Lots. In addition to the use of any Lake Maintenance Easement by any Owner, as described above, the Lake Maintenance Easement is for the use of the Association, the County, the applicable water management district and any other governmental agency for access to the Lakes for maintenance of the Lakes and littoral plantings and other proper purposes. No removal or damage to littoral or wetland plantings is permitted.

Section 4. COSTS. All costs associated with operating, maintaining, repairing and replacing the Association Property shall be the obligation of the Association. The Association Property shall be conveyed to the Association in accordance with the provisions of Article III, Section 6 hereof.

Section 5. PRIVATE USE. For the term of this Declaration, the Association Property is not for the use and enjoyment of the public, but is expressly reserved for the private use and enjoyment of Declarant, the Association and the Owners, and their family members, guests, invitees and lessees, but only in accordance with this Declaration.

A. Notwithstanding anything in this Declaration to the contrary, however, Declarant hereby expressly reserves the right to use the Association Property for such period of time as Declarant determines to be necessary in connection with the sale and marketing by Declarant of Homes in Valencia Isles and in any other communities developed or to be developed by Declarant or its affiliates, including, but not limited to, the holding of sales and marketing meetings and engaging in sales promotions and related sales and marketing activities.

B. Except to the extent herein provided, the Association Property shall be for the sole and exclusive use of the Owners and residents of Valencia Isles and their family members, guests, invitees and lessees.

C. The administration, management, operation and maintenance of the Association Property shall be the responsibility of the Association, as provided herein and in the Valencia Isles Documents.

D. The right to use the Association Property shall be subject to the rules and regulations established by the Association.

Section 6. PRIVACY FENCES AND HEDGES. Certain of the Lots within Valencia Isles on which "zero lot line" homes are constructed, as further described in Article IV, Section 6.C herein, will have privacy fences installed by Declarant ("Privacy Fences") on or along their rear and/or side lot lines, with hedges planted by Declarant on either or both sides of such Privacy Fences ("Hedges"). The Privacy Fences and Hedges are the maintenance, repair and replacement obligation of the Association, except as otherwise provided in Article X, Section 17 herein, and may not be altered in any way or removed by the Owner of the Lot.

Section 7. MODEL ROW. Declarant hereby reserves the right to construct and/or operate a "model row(s)" in Valencia Isles. The "model row(s)" may contain models for Valencia Isles or other communities, as Declarant and/or any of Declarant's affiliates may so determine, in their sole discretion. The "model row(s)" may also contain parking, landscaping and fencing across Streets, Drives, Roads and/or Roadways as Declarant may determine in its sole discretion. In the event that Declarant and/or any of Declarant's affiliates constructs a "model row(s)" in Valencia Isles, such "model row(s)" may be used for such period of time that Declarant and/or any of Declarant's affiliates determines to be necessary. By his acceptance of a deed for a Lot in Valencia Isles, each Owner agrees and acknowledges that: (i) Declarant and/or any of Declarant's affiliates have a right to construct and/or operate a "model row(s)"; (ii) Declarant and/or any of its affiliates have an easement over Valencia Isles for ingress and egress to and from the "model row(s)" and to use and show the models to prospective purchasers in Valencia Isles or other communities being developed by Declarant and/or any of Declarant's affiliates, as long as such "model row(s)" exists; and (iii) he shall not interfere in any manner whatsoever in the sales process by Declarant and/or any of its affiliates, including the carrying of signs or other types of demonstrations in Valencia Isles or any public right-of-way adjacent to the Property. Each Owner acknowledges that any such activities interfere with the quiet enjoyment of Valencia Isles by the other Owners, are detrimental to the value of the Homes within Valencia Isles, and interfere with the Declarant's ability to conduct its business.

ARTICLE III  
ADDITIONS TO AND WITHDRAWALS FROM THE PROPERTY;  
CONVEYANCE OF ASSOCIATION PROPERTY

Section 1. ADDITIONS. Declarant may from time to time, in its sole discretion, by recording appropriate Supplemental Declaration(s) in the Public Records of the County, add any Additional Property or any other real property to the Property governed by this Declaration, and may declare all or part of such Additional Property or other property (including any Improvements thereon) to be Lots or Association Property. Upon the recording of a Supplemental Declaration, the property described therein shall be deemed part of the Property as if it were originally included therein and subject to this Declaration. Any such Supplemental Declaration may submit any Additional Property or any other real property to such modifications of the covenants and restrictions contained in this Declaration as may be necessary or convenient to reflect or adapt to any changes in circumstances or differences in the character of any such Additional Property or other property. Nothing contained in this Section 1 shall be construed to require the joinder by or entitle a right to consent by Owners or the Association to any such Supplemental Declaration; provided, however, the Association shall join in the execution of any such Supplemental Declaration at the request of Declarant.

Section 2. DESIGNATION OF ADDITIONAL ASSOCIATION PROPERTY. The Declarant may, from time to time, by recording Supplemental Declarations in the County, designate additional portions of the then existing Property owned by it to be Association Property.

Section 3. DISCLAIMER OF IMPLICATION. Only the real property described in Exhibit "A" hereto is submitted and declared as the Property subject to this Declaration. Unless and until a Supplemental Declaration is recorded in the fashion required pursuant to this Declaration, no other property (including any Additional Property) shall in any way be deemed to constitute a portion of the Property or be affected by the covenants and restrictions expressly binding the Property as provided by the terms of this Declaration.

Section 4. ABSENCE OF OBLIGATION. Nothing in this Declaration shall be construed to require the Declarant to add any Additional Property to the Property encumbered by this Declaration or to require it to declare any portion of any properties added to the Property to be Association Property, nor shall anything in this Declaration be construed to require the Declarant to declare any portion or portions of the existing Property as Association Property, except to the extent herein specifically provided.

Section 5. WITHDRAWAL. Notwithstanding anything herein to the contrary, Declarant reserves the absolute right at any time to withdraw portions of the Property from the provisions of this Declaration by recording an appropriate Supplemental Declaration in the County; provided, however, that such withdrawal of portions of the Property from the provisions of this Declaration are subject to the prior written approval of the Palm Beach County Attorney's Office. Any such Supplemental Declaration must be executed by the Declarant, the Owner of each Lot located on the Property sought to be withdrawn (if any) and each holder of an Institutional Mortgage on a Lot located on the Property sought to be withdrawn (if any), in order to be effective. Nothing contained in this Section shall be construed to require the joinder or consent by Owners of Lots upon the portion of the Property which is not withdrawn by such Supplemental Declaration, such Owners' Institutional Mortgages, or the Association.

Section 6. TITLE TO THE ASSOCIATION PROPERTY. To the extent herein provided, the Association Property is hereby dedicated to the joint and several use in common of the Owners of all Lots that may, from time to time, constitute part of the Property. When title to all Lots which are subject to the provisions hereof has been conveyed to non-Declarant purchasers, or five (5) years after the conveyance of the first Home and Lot to a non-Declarant purchaser, whichever occurs first, or earlier at Declarant's option exercisable from time to time, as to any portions of the Association Property, the Declarant or its successors and assigns shall convey and transfer to the Association, by quit claim deed, the fee simple title to the Association Property free and clear of any liens and the Association shall accept such conveyance, holding title for the Owners as aforesaid. Such conveyance shall be subject to any real estate taxes and assessments due with respect to such Association Property from and after the date of recording this Declaration; any covenants, conditions, restrictions, reservations and limitations then of record; the easements herein set out; any zoning ordinances then applicable; and this Declaration, as amended from time to time.

At the time of conveyance of the Association Property or any portion thereof, the Association shall be required to accept such property and the personal property, if any, and Improvements appurtenant thereto. The Association hereby agrees to accept the Association Property and the personal property and Improvements appurtenant thereto in "AS IS" "WHERE IS" condition, without any representation or warranty, expressed or implied, in fact or by law, as to the condition or fitness of the Association Property or any portion thereof, and the personal property and Improvements appurtenant thereto.

The Association shall accept this conveyance of the Association Property and shall pay all costs of such conveyance including documentary stamps and other taxes of conveyance, recording charges, title insurance expenses and insurance fees. The conveyance shall not, however, impair in any way the Declarant's rights and easements as set forth in this Declaration.

Commencing upon the date this Declaration is recorded, and notwithstanding that title thereto has not yet been conveyed to the Association, the Association shall be responsible for the

maintenance of the Association Property in a continuous and satisfactory manner without cost to the general taxpayers of the County. The Association shall be responsible for the payment of real estate taxes, if any, against the Association Property including taxes on any Improvements and any personal property thereon accruing from and after the date this Declaration is recorded.

The Owners (including Declarant as to Lots owned by it) shall have no personal liability for any damages for which the Association is legally liable or arising out of or connected with the existence or use of any Association Property or any other property required to be maintained by the Association.

Subject to the foregoing, the Declarant may mortgage any or all portions of the Association Property to finance construction and development expenses provided that the mortgagee recognizes the rights of Owners under this Declaration and neither the Association nor any Owner is personally liable for paying the mortgage. In such event, neither the Association nor the Owners shall be required to join in or be entitled to consent to such mortgage. The Association Property shall be released from any such mortgage no later than the date same is conveyed to the Association.

Section 7. PARKING RIGHTS. The Association may maintain upon the Association Property parking spaces for Owners, occupants, visitors and guests. The use of such parking spaces by Owners, occupants, visitors and guests shall be subject to duly adopted rules and regulations of the Association.

#### ARTICLE IV OWNERS' PROPERTY RIGHTS

Section 1. OWNERS' EASEMENTS OF ENJOYMENT. Every Owner and family member, guest, lessee, agent or invitee of an Owner shall have a permanent and perpetual, nonexclusive easement for ingress and egress over, enjoyment in, and use of Association Property within the Property, in common with all other Owners, their family members, guests, lessees, agents and invitees, which easement shall be appurtenant to, and shall pass with title to each Owner's Lot. This right shall be subject to the following conditions and limitations:

- A. The right and duty of the Association to reasonably limit the number of guests, invitees or lessees of an Owner using the Association Property.
- B. The right and duty of the Association to levy Assessments against each Lot for the purpose of maintaining, repairing and replacing the Association Property and facilities thereon in compliance with the provisions of this Declaration and the restrictions on portions of the Property from time to time recorded by the Declarant.
- C. The right of the Association to establish uniform rules and regulations pertaining to the use of the Association Property.
- D. The right of the Association to establish uniform rules and regulations pertaining to the Lots for the purposes of enhancing the aesthetic uniformity of the Property.
- E. The right of the Association in accordance with its Articles, Bylaws, and this Declaration, with the vote or written assent of two-thirds (2/3) of the total voting interests, to borrow

money for the purpose of improving the Association Property and facilities thereon, and, in aid thereof, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, provided that the rights of such mortgagee shall be subordinated to the use rights of the Owners.

F. The right of the Association to dedicate, release, alienate, or transfer all or any part of the Association Property to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Owners. No such dedication, release, alienation or transfer shall be effective unless Members entitled to cast two-thirds (2/3) of the total voting interests agree to such dedication, release, alienation or transfer.

G. The right of the Association to grant easements, rights-of-way or strips of land, where necessary, for utilities, sewer facilities, cable television, and other services over the Association Property to serve the Association Property and other portions of the Property without vote of the Owners.

H. The right of the Declarant and Declarant's officers, directors, partners, employees, agents, licensees, and invitees to the nonexclusive use of the Association Property and the facilities thereon without charge, for sales, display, access, ingress, egress, construction, and exhibit purposes.

I. The right of the Association, by action of the Board, to reconstruct, replace, or refinish any Improvement or portion thereof upon the Association Property, in accordance with the original design, finish, or standard of construction of such Improvement.

J. The right of the Association to replace destroyed trees or other vegetation and plant trees, shrubs, and ground cover upon any portion of the Association Property.

K. The right, however not the duty, of the Association by action of the Board to seek the vacation of publicly dedicated streets, if any, upon the Property.

L. The easements provided elsewhere in this Declaration, designated on the Plat, or on the Additional Plat, if any, including, but not limited to, those set forth in this Article IV.

M. The right of the Association to provide for the maintenance, preservation and architectural control of Lots and other properties as set forth in this Declaration.

Section 2. DELEGATION OF USE. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Association Property to the members of his family, or to the lessees who reside in his Home, subject to all of the rules and regulations presently in effect and any which may become effective in the future, and further subject to reasonable regulation by the Board.

Section 3. RECOGNITION OF EXISTING EASEMENTS. Each Owner, by acceptance of a deed or other instrument of conveyance, recognizes and consents to the easements reserved and/or granted with respect to the Property under this Declaration.

Section 4. EASEMENTS FOR VEHICULAR TRAFFIC. In addition to the general easements for use of the Association Property reserved herein, there shall be, and Declarant hereby reserves,

grants, and covenants for itself and all future Owners, their family members, guests, invitees and lessees, Institutional Mortgagees of the Property (or portions thereof), and to the Association, that all of the foregoing shall have a perpetual nonexclusive easement for vehicular traffic over (i) all streets dedicated to the public use, if any (as well as alcoves, cul de sacs, and other private, paved areas abutting or serving the same), and (ii) any private Streets, Drives, Roads and/or Roadways within or upon the Property.

Section 5. ACCESS EASEMENT. Declarant hereby reserves perpetual, nonexclusive easements of ingress and egress over and across (i) any and all streets dedicated to the public use, if any (as well as alcoves, cul de sacs, and other private, paved areas abutting or serving the same), and (ii) any private Streets, Drives, Roads and/or Roadways and driveways within or upon the Property and all other portions of the Property which are necessary or convenient for enabling Declarant to carry on the work referred to in this Declaration, which easements shall be for the use of Declarant, Declarant's employees, contractors and agents, Declarant's successors and assigns, Owners, and the respective lessees, employees, agents, invitees, and licensees of Declarant and Owners.

Section 6. GRANT AND RESERVATION OF EASEMENTS. Declarant hereby reserves and grants the following perpetual, nonexclusive easements over and across the Property as covenants running with the Property for the benefit of the Owners, the Association, and Declarant as hereinafter specified for the following purposes:

A. Utility and Services Easements. All of the Property shall be subject to an easement or easements to provide for: (a) installation, service, repair and maintenance of the equipment required to provide utility services to the Association Property and the Lots, including, but not limited to, power, lights, telephone, cable television, gas, water, sewer and drainage, and (b) governmental services, including, but not limited to, police, fire, health, sanitation and other public service personnel, including reasonable rights of access for persons and equipment necessary for such purposes for the benefit of the appropriate utility companies, agencies, franchises or governmental agencies.

B. Easement for Encroachment. All of the Property shall be subject to an easement or easements for encroachment in favor of each Owner in the event any portion of his Home or appurtenant Improvements installed by Declarant such as stucco, a fence or underground footer now or hereafter encroaches upon any of the Lots as a result of minor inaccuracies in survey or construction, by design, or due to settlement or movement. Such encroaching Improvements installed by Declarant shall remain undisturbed for so long as the encroachment exists. Any easement for encroachment shall include an easement for the maintenance and use of the encroaching Improvements in favor of the Owner thereof or his designees.

C. Zero Lot Line Maintenance Easements.

(1) Preamble: A portion of the Homes in Valencia Isles may be designed and site planned as "zero lot line" homes, such that each Home is constructed so that all or portions of one side of such Home (and such fences or masonry walls extending from such side or sides) are situated on the side boundary lines of the Lot. Because of this design, it is necessary to provide a means by which the Owner of a Lot ("Dominant Lot") containing such a Home may have access to the "zero lot line" sides of the Home (and other portions of his Lot and Home) in order to maintain

portions of the Lot, the side of the Home, the roof and other applicable portions of the Home and Lot, and so that rain water may run off the roof of a particular Home onto the easement area described below. Because such access must be, of necessity, over those portions of the neighboring Lot or Lots ("Servient Lot[s]") adjacent to the "zero lot line" side[s] of such a Home, Declarant hereby makes provision for the "Maintenance Easements" declared and regulated pursuant to this Section 6 (as well as similar easements for the aforesaid purposes which may, but need not, appear on the Plat).

(2) **Creation and Extent of Maintenance Easement:** Declarant hereby reserves a permanent and perpetual non-exclusive maintenance easement in favor of each Dominant Lot over the unimproved portion of the Servient Lot(s) adjacent to the building lines of the "zero lot line" Home located on the Dominant Lot, which building lines are co-extensive with the Lot lines dividing the aforesaid Lots ("Maintenance Easement"). Said Maintenance Easement shall be appurtenant to and pass with the title of the Dominant Lot and the Servient Lot(s). The Maintenance Easement shall be only as extensive as reasonably necessary to permit the Owner of a Dominant Lot to make the uses described in the Preamble above, subparagraph (3) below and for rainwater run-off, but in no event less than the greater of seven (7) feet in width or as may be otherwise shown as an access or similar easement on the Plat.

(3) **Use and Conditions of Maintenance Easement:** The Owner of a Dominant Lot, his guests, invitees, contractors, subcontractors, suppliers, laborers and other service personnel, shall be entitled to enter onto the appurtenant Maintenance Easement for purposes of maintaining, repairing and replacing portions of his Lot and Home including, without limitation, the Home's walls, roof, fence, landscaping and other installations which cannot be conveniently or properly maintained, repaired or replaced solely from the Dominant Lot. The right of each Owner of the Dominant Lot to use the Maintenance Easement shall be limited to the aforesaid uses and such Owner shall not do anything within the Servient Lot(s) which shall cause damage to the Servient Lot(s) or any Improvement or landscaping thereon which is not promptly and fully remedied by said Owner to return such damaged Improvement or landscaping to the condition immediately preceding said damage, shall create an undue hazard to persons or pets located on or coming into the Servient Lot(s) or is in furtherance of any activity on the Dominant Lot or the Home thereon which is, or would result in, a violation of the restrictions set forth in the Valencia Isles Documents. The Owner of the Dominant Lot shall, by virtue of making use of any Maintenance Easement, be deemed to indemnify the Owner of a Servient Lot for any and all losses, costs, expenses or damage to any person or property incurred by reason of the former's violations of the restrictions contained herein.

(4) **Servient Lot Owner Duties:** Owners of Servient Lots shall not make any improvement to the Servient Lot, including, without limitation, the placement of fences or landscaping, which would unreasonably interfere with the permissible uses of any maintenance or access easement appurtenant to the adjoining Dominant Lot reserved hereby or with the flowage easement described in this Section 6. Notwithstanding the foregoing, the Owner of a Servient Lot may install a fence or landscaping thereon provided such installation is approved by the Committee pursuant to Article VIII hereof.

(5) **Reciprocity:** Each Owner, by acceptance of a deed for a Lot containing a "zero lot line" Home, hereby acknowledges and agrees that such Owner's Lot may not only be a Dominant Lot having rights across adjacent Servient Lots as hereinbefore described but

also a Servient Lot encumbered by the easement rights hereinbefore described in favor of the Dominant Lots adjacent to such Lot.

D. Easement to Enter Upon Lots. An easement or easements for ingress and egress in favor of the Association, including the Board or the designee of the Board, to enter upon the Lots for the purposes of fulfilling its duties and responsibilities of ownership, maintenance and/or repair in accordance with the Valencia Isles Documents, including, by way of example, the making of such repairs, maintenance or reconstruction as are necessary for the Association Property and to maintain any Lot in the event the Owner thereof fails to do so.

E. Easement Over Association Property. An easement of enjoyment in favor of all Owners, their family members, guests, invitees and lessees in and to the Association Property which shall be appurtenant to and shall pass with title to every Lot in the Property, subject to the following:

(b) the right of the Association to suspend the right to use the Association Property of any Owner for any period during which Assessments against his Lot remain unpaid, subject to the notice and hearing provisions in Article X, Section 1 herein;

(2) the right of the Association to grant permits, licenses and easements over the Association Property for utilities and other purposes reasonably necessary or useful for the proper maintenance or operation of the Property; and

(3) all provisions set forth in the Valencia Isles Documents.

F. Easement for Roof Overhang. An easement or easements to provide for the roof overhang of a Home in favor of the Owner thereof, including rights of access for persons or equipment necessary to maintain, repair and replace such roof overhang.

G. Drainage and Irrigation Easement. An easement for drainage, flowage and irrigation over, under and upon the Property, including each of the Lots, in favor of the Association and each of the Owners, including, but not limited to, reasonable rights of access for persons and equipment to construct, install, maintain, alter, inspect, remove, relocate and repair the water drainage system, flowage pipes and irrigation pipes.

H. Drainage System Encroachment Easement. An easement for encroachment over, under and upon the drainage easements located within the Lots, as designated on the Plat and Additional Plat, if any, in favor of (i) the Owner of the Lot upon which the drainage easement is located for the existence of any driveway and/or sidewalk or irrigation system or part thereof, and (ii) the Association for reasonable rights of access for persons and equipment to construct, install, maintain, alter, inspect, remove, relocate and repair any driveway and/or sidewalk, or irrigation system or part thereof installed or located thereon. In the event the Association requires access to any Drainage System improvements within a drainage easement located within a Lot upon which any such driveway and/or sidewalk or irrigation system encroaches, the Association has the obligation, at its own cost and expense, to remove and replace any such encroachment, and to return it to its condition immediately preceding such removal and replacement once access to the drainage easement is no longer required. The flowage easements providing for drainage run between each of the Lots parallel to and over the side lot line thereof, draining from the rear to the front of the Lots.

Section 7. ASSIGNMENTS. The easements reserved hereunder may be assigned by Declarant or the Association in whole or in part to any city, county or state government or agency thereof, or any duly licensed or franchised public utility, or any other designee of Declarant. The Owners hereby authorize Declarant and/or the Association to execute, on their behalf and without further authorization, such grants of easement or other instruments as may from time to time be necessary to grant easements over and upon the Property or portions thereof in accordance with the provisions of this Declaration.

Notwithstanding anything in this Declaration to the contrary, all easement rights reserved or granted to Declarant shall terminate upon Declarant no longer holding title to any Lot or Home on the Property or holding a leasehold interest in any Lot or holding a mortgage on a Lot or Home on the Property. In addition, the easement rights granted or reserved by Declarant hereunder are not to be construed as creating an affirmative obligation to act on the part of Declarant.

ARTICLE V  
MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION;  
BOARD; DURATION OF THE ASSOCIATION

Section 1. MEMBERSHIP AND VOTING RIGHTS. Membership in the Association shall be established and terminated as set forth in the Articles. Each Member shall be entitled to the benefit of, and be subject to, the provisions of the Valencia Isles Documents. The voting rights of the Members shall be as set forth in the Articles.

Section 2. BOARD. The Association shall be governed by the Board which shall be appointed, designated or elected, as the case may be, as set forth in the Articles.

Section 3. DURATION OF ASSOCIATION. The duration of the Association shall be perpetual, as set forth in the Articles.

ARTICLE VI  
COVENANT TO PAY ASSESSMENTS; ESTABLISHMENT OF LIENS;  
COLLECTION OF ASSESSMENTS; COLLECTION BY DECLARANT;  
CERTAIN RIGHTS OF DECLARANT AND INSTITUTIONAL MORTGAGEES

Section 1. AFFIRMATIVE COVENANT TO PAY ASSESSMENTS. In order to: (i) fulfill the terms, provisions, covenants and conditions contained in the Valencia Isles Documents; and (ii) maintain, operate and preserve the Association Property for the use, safety, welfare and benefit of the Members and their family members, guests, invitees and lessees, there is hereby imposed upon each Completed Lot, and Incomplete Lot, and each Completed Lot Owner and Incomplete Lot Owner, the affirmative covenant and obligation to pay to the Association commencing from and after the first conveyance of a Home from Declarant as evidenced by the recording of a Deed in the Public Records of the County (in the manner herein set forth) all Assessments, including, but not limited to, the Individual Lot Assessments and Special Assessments. Each Owner, by acceptance of a deed or other instrument of conveyance conveying a Lot within the Property, whether or not it shall be so expressed in such deed or instrument, shall be obligated and agrees to pay to the Association all Assessments in accordance with the provisions of the Valencia Isles Documents.

The following expenses of the Association are hereby declared to be Operating Expenses which the Association is obligated to assess and collect, and which the Owners are obligated to pay as provided herein or as may be otherwise provided in the Valencia Isles Documents: (1) any and all taxes and tax liens which may be assessed or levied at any and all times against the Association Property or against any and all personal property or Improvements thereon; (2) all charges levied for utilities providing services for the Association Property, such as water, gas, electricity, telephone, cable television, sanitation, sewer and any type of utility or any other type of service charge which is not separately billed to an Owner; (3) the premiums on policies of insurance including, but not limited to, liability, casualty and directors and officers liability insurance for the Association Property; (4) any sums necessary for the maintenance and repair of the Association Property and all Improvements located thereon; (5) administrative and operational expenses; and (6) any and all expenses deemed to be Operating Expenses by the Association. Reserves for replacements are specifically excluded from Operating Expenses. The Board may, if it so determines, include reserves in the Association's annual budget; however, reserves are not part of Operating Expenses and are therefore payable only by Completed Lot Owners. In addition, any expense which is required by the Declaration to be the matter of Special Assessment shall not be deemed to be an Operating Expense. Expenses which are required to be the matter of Special Assessment include, by way of example but not by way of limitation, the following: the cost of reconstructing, replacing or improving the Association Property or any portion thereof or Improvements thereon; any casualty loss affecting the Association or the Association Property to the extent such loss exceeds the insurance proceeds, if any, receivable by the Association as a result of such loss; any judgment against the Association (or against a Director or Directors if and to the extent such Director is, or such Directors are, entitled to be indemnified by the Association therefor pursuant to the Articles) to the extent such judgment exceeds the insurance proceeds, if any, received by the Association as a result of such judgment, or an agreement by the Association (or such Director or Directors to whom indemnification is owed) to pay an amount in settlement of a lawsuit against it (or such Director or Directors) to the extent such settlement exceeds the insurance proceeds, if any, received by the Association as a result of such settlement agreement; and legal fees and costs (including, without limitation, attorneys and paralegal fees and court costs) incurred by the Association in connection with litigation (whether incurred for the preparation, filing, prosecution or settlement thereof or otherwise), except Legal Fees incurred by the Association in connection with the collection of Assessments or other charges which Owners are obligated to pay pursuant to the Valencia Isles Documents or the enforcement of the use and occupancy restrictions contained in the Valencia Isles Documents.

The Operating Expenses with respect to the Association Property are payable by each Owner to the Association notwithstanding the fact that Declarant may not have as yet conveyed title to the Association Property to the Association.

Section 2. ESTABLISHMENT OF LIENS. Each Assessment against a Lot, together with Interest thereon and costs of collection, including, but not limited to, Legal Fees, shall be the personal obligation of the Owner of such Lot. Any and all Assessments made by the Association in accordance with the provisions of the Valencia Isles Documents with Interest thereon and costs of collection, including, but not limited to, Legal Fees, are hereby declared to be a charge and continuing lien upon each Lot against which each such Assessment is made. Said lien shall be effective only from and after the time of the recordation amongst the Public Records of the County of a written, acknowledged statement by the Association setting forth the amount due to the Association as of the date the statement is signed. Upon full payment of all sums secured by that

lien, the party making payment shall be entitled to a satisfaction of the statement of lien in recordable form. Notwithstanding anything to the contrary herein contained, in the event an Institutional Mortgagee of record obtains title to a Lot as a result of foreclosure of its first mortgage or deed in lieu of foreclosure, such acquiror of title, its successors or assigns, shall not be liable for the share of Assessments pertaining to such Lot or chargeable to the former Owner thereof which became due prior to the acquisition of title as a result of the foreclosure or deed in lieu thereof, unless the Assessment against the Lot in question is secured by a claim of lien for Assessments that is recorded prior to the recordation of the mortgage which was foreclosed or with respect to which a deed in lieu of foreclosure was given.

**Section 3. COLLECTION OF ASSESSMENTS.** In the event any Owner shall fail to pay any Assessment or installment thereof, charged to such Owner within fifteen (15) days after the same becomes due, then the Association, through its Board, shall have any and all of the following remedies to the extent permitted by law, which remedies are cumulative and which remedies are not in lieu of, but are in addition to, all other remedies available to the Association:

1. To accelerate the entire amount of any Assessment for the remainder of the calendar year notwithstanding any provisions for the payment thereof in installments.

2. To advance on behalf of the Owner(s) in default funds to accomplish the needs of the Association up to and including the full amount for which such Owner(s) is liable to the Association and the amount or amounts of monies so advanced, together with Interest and all costs of collection thereof, including, but not limited to, Legal Fees, may thereupon be collected by the Association from the Owner(s) and Parcel Owner(s) and such advance by the Association shall not waive the default.

3. To file an action in equity to foreclose its lien at any time after the effective date thereof as provided in Section 2 hereinabove. The lien may be foreclosed by an action in the name of the Association in like manner as a foreclosure of a mortgage on real property.

4. To file an action at law to collect said Assessment plus Interest and all costs of collection thereof, including, but not limited to, Legal Fees, without waiving any lien rights or rights of foreclosure in the Association.

5. To charge Interest on such Assessment from the date it becomes due, as well as a late charge of Twenty-Five Dollars (\$25) by the Association to defray additional collection costs.

6. To suspend the use rights of the Owner(s) in default to the Association Property, subject to the Notice and Hearing provisions in Article X, Section 1 herein.

7. To suspend the right of the Owner(s) in default to vote on any matter on which Owners have the right to vote if such Owner is delinquent in payment of assessments for more than ninety (90) days.

**Section 4. COLLECTION BY DECLARANT.** In the event for any reason the Association shall fail to collect the Assessments, Declarant shall at all times have the right (but not the obligation): (i) to advance such sums as the Association could have advanced as set forth above; and (ii) to

collect such Assessments and, if applicable, any such sums advanced by Declarant, together with Interest and costs of collection, including, but not limited to, Legal Fees.

Section 5. RIGHTS OF DECLARANT AND INSTITUTIONAL MORTGAGEES TO PAY ASSESSMENTS AND RECEIVE REIMBURSEMENT. Declarant and any Institutional Mortgagee(s) shall have the right, but not the obligation, jointly or individually, and at their sole option, to pay any of the Assessments which are in default and which may or have become a charge against any Lot(s). Further, Declarant and any Institutional Mortgagee shall have the right, but not the obligation, jointly or individually, and, at their sole option, to pay insurance premiums or fidelity bond premiums or other required items of Operating Expenses on behalf of the Association in the event the same are overdue and when lapses in policies or services may occur. Declarant and any Institutional Mortgagee paying overdue Operating Expenses on behalf of the Association will be entitled to immediate reimbursement from the Association plus Interest and any costs of collection including, but not limited to, Legal Fees, and the Association shall execute an instrument in recordable form to this effect and deliver the original of such instrument to each Institutional Mortgagee who is so entitled to reimbursement and to Declarant if Declarant is entitled to reimbursement.

Section 6. CABLE TELEVISION SYSTEM. The Association shall have the right to enter into an agreement ("Cable Agreement") for cable television service ("Cable Service") for Homes in Valencia Isles. Any and all costs and expenses incurred by the Association under or pursuant to any Cable Agreement(s) entered into by the Association for Cable Service will be assessed against all Completed Lot Owners. It is contemplated that the Cable Service may include features in addition to television reception such as, but not limited to, long distance telephone or other features. Notwithstanding anything to the contrary contained in this Declaration, the costs and expenses charged to the Association under the Cable Agreement shall be apportioned equally, but only amongst those Homes with respect to which the Association is being charged under or pursuant to the Cable Agreement except to the extent, if any, that any Owner elects to receive an "Optional Service" (being a service not automatically received by all Owners entitled to receive Cable Service pursuant to the Cable Agreement). Each Owner who receives an Optional Service, if any, shall be responsible for paying for the costs thereof. The foregoing shall in no way obligate Declarant or the Association to enter into a Cable Agreement.

Section 7. MONITORED ALARM SYSTEM. The Association shall have the right to enter into an agreement ("Monitored Alarm Agreement") for monitored alarm service ("Monitored Alarm Service") for Homes in Valencia Isles. Any and all costs and expenses incurred by the Association under or pursuant to any Monitored Alarm Agreement(s) entered into by the Association for Monitored Alarm Service will be assessed against all Completed Lot Owners. It is contemplated that the Monitored Alarm Service may include features in addition to perimeter monitored alarm services such as, but not limited to, a smoke/heat detection system, push button panels for emergency calls or other features. Notwithstanding anything to the contrary contained in this Declaration, the costs and expenses charged to the Association under the Monitored Alarm Agreement shall be apportioned equally but only amongst those Homes with respect to which the Association is being charged under or pursuant to the Monitored Alarm Agreement except to the extent, if any, that any Owner elects to receive an "Optional Service" (being a service not automatically received by all Owners entitled to receive Monitored Alarm Service pursuant to the Monitored Alarm Agreement). Each Owner who receives an Optional Service, if any, shall be responsible for paying for the costs thereof. In addition, each Owner shall be responsible for paying any charges or other costs to

register the alarm in such Owner's Home as may be required by any governmental authority. The foregoing shall in no way obligate Declarant or the Association to enter into a Monitored Alarm Agreement.

Section 8. CENTRAL IRRIGATION SYSTEM. The Declarant shall have the right to install a central irrigation system using reclaimed water provided by the County for any or all of the Lots within Valencia Isles. In the event Declarant installs a central irrigation system for any or all of the Lots within Valencia Isles, the responsibility for operating and maintaining such system shall be governed by the provisions of Section 1.B and Section 2.A of Article IX below. The foregoing shall in no way obligate Declarant to install a central irrigation system using reclaimed water within any or all of the Lots within Valencia Isles.

ARTICLE VII  
METHOD OF DETERMINING ASSESSMENTS  
AND ALLOCATION OF ASSESSMENTS

Section 1. DETERMINING AMOUNT OF ASSESSMENTS. The total anticipated Operating Expenses for each calendar year shall be set forth in the budget ("Budget") prepared by the Board as required under the Valencia Isles Documents. Each Completed Lot and Incomplete Lot shall be assessed its *pro rata* portion of the total anticipated Operating Expenses, which shall be the "Individual Lot Assessment" as to each Lot. The Individual Lot Assessment shall be based upon the level of service to each Lot and upon the state of the Lot's development, with the Owners of Completed Lots paying the Operating Expenses on a twenty to one ratio (20:1) compared to the Owners of Incomplete Lots as set forth below. Therefore, the Completed Lot Owners and Incomplete Lot Owners shall share the payment of the Operating Expenses on a ratio of twenty to one (20:1). Therefore, the total anticipated Operating Expenses (other than those expenses which are properly the subject of Special Assessment) shall be divided by the total number of Completed Lots multiplied by twenty (20) plus the number of Incomplete Lots, with the quotient thus arrived at being the "Individual Lot Assessment" for an Incomplete Lot. Said quotient multiplied by twenty (20) shall be the Individual Lot Assessment for a Completed Lot. The number of Completed Lots and Incomplete Lots shall be adjusted quarterly, as needed, as hereinafter set forth. At such time as Declarant has completed all of the Homes on all of the Lots, each Lot shall be a Completed Lot and the Individual Lot Assessment shall be equal for each Lot. Notwithstanding anything in the Valencia Isles Documents to the contrary, any Assessment for legal expenses incurred by the Association for lawsuits shall be deemed an Operating Expense which is properly the subject of Special Assessment and not the subject of an Individual Lot Assessment, except the legal fees incurred by the Association in connection with the collection of assessments or other charges which Owners are obligated to pay pursuant to the Valencia Isles Documents or the enforcement of the use and occupancy restrictions contained in the Valencia Isles Documents.

Section 2. ASSESSMENT PAYMENTS. Individual Lot Assessments shall be payable quarterly, in advance, on the first day of January, April, July and October of each year, provided, however, at the Association's option, Individual Lot Assessments may be payable monthly. Individual Lot Assessments, and the quarterly or monthly installments thereof, may be adjusted from time to time by the Board to reflect changes in the number and status of Completed Lots and Incomplete Lots (thus apportioning all such Assessments and installments thereof among all Lots at the time such installment is due) or changes in the Budget or in the event the Board determines that an Assessment or any installment thereof is either less than or more than the amount actually

required. When an Incomplete Lot becomes a Completed Lot during a period with respect to which an Assessment or installment thereof has already been assessed, such Completed Lot shall be deemed assessed the amount of such Assessment or installment thereof which was assessed against Completed Lots in existence at the time of such Assessment, prorated from the date the Lot became a Completed Lot through the end of the period in question. If the payment of such Assessment or installment thereof was due at the time the Lot became a Completed Lot or prior thereto, said prorated amount thereof shall be immediately due and payable. Likewise, the amount paid with respect to such Completed Lot based upon the Lot's status as an Incomplete Lot, prorated from the date the Incomplete Lot became a Completed Lot to the end of the period in question, shall be credited against the amount owed as a Completed Lot.

Section 3. SPECIAL ASSESSMENTS. "Special Assessments" include, in addition to other Assessments designated as Special Assessments in the Valencia Isles Documents and whether or not for a cost or expense which is included within the definition of "Operating Expenses," those Assessments which are levied for capital improvements which include the costs (whether in whole or in part) of constructing or acquiring Improvements for, or on, the Association Property or the cost (whether in whole or in part) of reconstructing or replacing such Improvements. Notwithstanding anything to the contrary herein contained, it is recognized and declared that Special Assessments shall be in addition to, and are not part of, any Individual Lot Assessment. Any Special Assessments assessed against Lots and the Owners thereof shall be paid by such Owners in addition to any other Assessments and shall be assessed in the same manner as the Individual Lot Assessment. Special Assessments shall be paid in such installments or in a lump sum as the Board shall, from time to time, determine. Notwithstanding the foregoing, the levying of any Special Assessment after the Turnover Date shall require the affirmative assent of at least two-thirds (2/3) of all Owners represented in person or by proxy at a meeting called and held in accordance with the Bylaws. Prior to the Turnover Date, a Declarant-controlled Board may make a Special Assessment without such vote of the Owners. Special Assessments are not included in the guarantee set forth in Section 5 below.

Section 4. LIABILITY OF OWNERS FOR INDIVIDUAL LOT ASSESSMENTS. By the acceptance of a deed or other instrument of conveyance of a Lot in the Property, each Owner thereof acknowledges that each Lot and the Owners thereof are jointly and severally liable for their own Individual Lot Assessments and their applicable portion of any Special Assessments, as well as for any and all other Assessments for which they are liable, as provided for herein. Such Owners further recognize and covenant that they are jointly and severally liable with the Owners of all Lots for the Operating Expenses (subject to any specific limitations provided for herein such as, but not limited to, the limitation with respect to matters of Special Assessment and the limitations on the liability of Institutional Mortgagees and their successors and assigns). Accordingly, subject to such specific limitations, it is recognized and agreed by each Owner, for himself and his heirs, executors, successors and assigns, that in the event any Owner fails or refuses to pay his Individual Lot Assessment or any portion thereof, or his respective portion of any Special Assessment or any other Assessment, then the other Owners may be responsible for increased Individual Lot Assessments or Special Assessments or other Assessments due to the nonpayment by such other Owner, and such increased Individual Lot Assessment or Special Assessment or other Assessment can and may be enforced by the Association and Declarant in the same manner as all other Assessments hereunder as provided in the Valencia Isles Documents.

Section 5. GUARANTEED ASSESSMENT DURING GUARANTEE PERIOD. Declarant covenants and agrees with the Association and the Owners that, for the period commencing with the date of recordation of this Declaration and ending upon the sooner to occur of the following: (i) the

Turnover Date; or (ii) December 31, 2000 ("Guarantee Period"), Declarant shall be excused from payment of its share of the Operating Expenses and Assessments related to its Lots (other than Special Assessments) and, in turn, that the Individual Lot Assessment will not exceed the dollar amount set forth in the initial Budget of the Association ("Guaranteed Assessment") and that Declarant will pay the difference ("Deficit"), if any, between (a) the Operating Expenses (other than those Operating Expenses which are properly the subject of a Special Assessment) incurred by the Association during the Guarantee Period (as same may be extended as hereinafter provided), and (b) the amounts assessed as Guaranteed Assessments against Owners during the Guarantee Period (as same may be extended as hereinafter provided), the "Working Fund Contributions" set forth in Article VII, Section 7 hereof and any other income of the Association during the Guarantee Period (as same may be extended as hereinafter provided). Thus, during the Guarantee Period (as same may be extended as hereinafter provided), Owners shall not be obligated to pay Assessments other than the Guaranteed Assessment and Special Assessments and the Owners' respective Working Fund Contributions. The Deficit, if any, to be paid by Declarant pursuant to this Section 5 shall be determined by looking at the Guarantee Period (as same may be extended as hereinafter provided) as a whole, without regard to quarterly, annual or any other accounting or fiscal periods and without regard to intraperiod allocations. In that regard, in the event it is determined at the end of the Guarantee Period (as same may be extended as hereinafter provided) that there is a Deficit and Declarant has previously advanced funds to the Association in excess of the Deficit during the Guarantee Period (as same may be extended as hereinafter provided), Declarant shall be entitled to the immediate repayment from the Association of the amount of funds advanced by Declarant in excess of the Deficit. Declarant hereby reserves the right to extend the Guarantee Period from time to time to a date ending no later than the Turnover Date at Declarant's sole election by providing written notice to the Association of such election at least thirty (30) days prior to the expiration of the Guarantee Period (as same may have been previously extended). Declarant also reserves the right to increase the amount of the Guaranteed Assessment during any such extended Guarantee Period. Special Assessments are not included in this guarantee. Special Assessments may include assessments for items such as capital expenditures or amounts needed to supplement repair expenses not covered by insurance. The initial Budget is based on a full build-out of Valencia Isles.

After the Guarantee Period (as same may have been previously extended) terminates, each Owner shall be obligated to pay Assessments as set forth in Article VII, Section 1 hereof, and, commencing at such time, Declarant shall be required to pay Assessments on any Lots it owns in the same manner as all other Owners.

Section 6. DECLARANT'S GUARANTEED ASSESSMENT NOT THE OBLIGATION OF INSTITUTIONAL MORTGAGEES. Notwithstanding anything to the contrary herein contained, it is specifically understood and declared that each Owner, by the acceptance of a deed or other instrument of conveyance of a Lot within the Property, shall be deemed to have acknowledged and agreed that no Institutional Mortgagee (other than Declarant) or any successor or assign of such Institutional Mortgagee, or any person acquiring title to any part of the Property by reason of the foreclosure or otherwise of an Institutional Mortgagee shall be deemed to have made, assumed or otherwise undertaken any covenants or obligations of Declarant: (i) to guarantee the level and/or duration of any Guaranteed Assessments provided for under any of the Valencia Isles Documents; or (ii) to pay the difference between the actual Operating Expenses and the Guaranteed Assessments, if any, assessed against Lots and the Owners thereof during the Guarantee Period as may be provided for in any of the Valencia Isles Documents; provided, however, that an Institutional Mortgagee may, at its option, determine to continue the obligation of Declarant to guarantee the amount of the Assessments as herein provided. Additionally, a successor Declarant shall not be deemed to guarantee the level and/or duration of any Guaranteed Assessments provided for under any of the

Valencia Isles Documents or be obligated or pay the difference between the actual Operating Expenses and the Guaranteed Assessments, if any, assessed against Lots and the Owners thereof during the Guarantee Period unless such obligation is assumed in writing by such successor declarant.

Section 7. WORKING FUND CONTRIBUTION. Each Owner who purchases a Lot with a Home thereon from Declarant shall pay to the Association at the time legal title is conveyed to such Owner, a "Working Fund Contribution." The Working Fund Contribution shall be an amount equal to a three months' share of the annual Operating Expenses applicable to such Lot pursuant to the initial Budget (which shall be prepared as if all Lots are Completed Lots and may be different from the Budget in effect at the time of closing). The purpose of the Working Fund Contribution is to insure that the Association will have cash available for initial start-up expenses, to meet unforeseen expenditures and to acquire additional equipment and services deemed necessary or desirable by the Board. Working Fund Contributions may also be used to offset Operating Expenses, both during the Guarantee Period and thereafter. Working Fund Contributions are not advance payments of Individual Lot Assessments and shall have no effect on future Individual Lot Assessments, nor will they be held in reserve. To further ensure that the Association will have sufficient cash available to pay for start-up expenses, Operating Expenses and other expenses, Declarant may from time to time advance to the Association the Working Fund Contribution applicable to any Lot(s) prior to the time legal title to such Lot(s) is conveyed to the Owner(s) thereof. In the event Declarant advances the Working Fund Contribution applicable to any Lot, then, at the time legal title to such Lot is conveyed to the Owner thereof, the Working Fund Contribution to be paid by such Owner to the Association pursuant to this Section 7 shall be paid directly to Declarant in reimbursement of the advance, instead of to the Association.

Section 8. WAIVER OF USE. No Owner, other than Declarant, may exempt himself from personal liability for Assessments duly levied by the Association. No Owner may release the Lot owned by him from the liens and Charges hereof either by waiver of the use and enjoyment of the Association Property and the facilities thereon or by abandonment of his Home.

ARTICLE VIII  
ARCHITECTURAL CONTROL COMMITTEE

Section 1. MEMBERS OF THE COMMITTEE. The Architectural Control Committee, sometimes referred to in this Declaration as the "Committee," shall comprise three (3) members. The initial members of the Committee shall consist of persons designated by Declarant. Each of said persons shall hold office until all Lots and Homes have been conveyed or at such earlier time as the Declarant may, at its sole option, elect. Thereafter, each new member of the Committee shall be appointed by the Board and shall hold office until such time as he has resigned or has been removed or his successor has been appointed, as provided herein. Members of the Committee, other than those designated by the Declarant, may be removed at any time without cause. The Board shall have the sole right to appoint and remove all members of the Committee other than those designated by the Declarant.

Section 2. REVIEW OF PROPOSED CONSTRUCTION

A. No Improvements, including, by way of example and not of limitation, accessory structures, exterior lighting fixtures, brick pavers, stamped concrete, concrete flatwork, basketball goals, buildings, fences, walls, pools, roofs, gutters or rain spouts, antennae, aerials, microwaves, reception devices, mailboxes, external enclosures including entry screen and patio

screen enclosures), or landscaping (including hedges and massed plantings) shall be commenced, erected, installed, altered, modified, painted, planted, or maintained on the Property, including the Lots, nor shall any canopy, shutters, or window coverings be attached to or placed upon outside walls or roofs of any Home or building by any Owner other than Declarant, unless such Improvements have been reviewed by and received the written approval of the Committee in accordance with Paragraph B hereinbelow. Any Owner desiring to make Improvements shall submit two (2) complete sets of plans and specifications prepared by an architect, landscape architect, engineer or other person determined by the Committee to be qualified, showing the nature, dimensions, materials and location of the same.

B. The Committee shall approve proposed plans and specifications submitted for its approval only if it deems that the construction, alterations or additions contemplated will not be detrimental to the appearance of the surrounding area of the Property as a whole, and that the appearance of any structure affected thereby will be in harmony with the surrounding structures and is otherwise desirable. The Committee may also issue rules or guidelines setting forth procedures for the submission of plans and specifications. If the proposed construction, alterations or additions are to a portion of the Improvements which the Association is obligated to maintain, said approval shall also be subject to approval by the Board. The Committee may condition its approval of proposed plans and specifications in such a manner as it deems appropriate and may require the submission of additional information prior to approving or disapproving such plans.

C. The Committee shall have thirty (30) days after delivery of all required materials to approve or reject any such plans and, if not approved within such thirty (30) day period, such plans shall be deemed rejected, provided that, in any event, no such addition, construction or alteration shall be made by any Owner which is detrimental to or inconsistent with the harmony, appearance or general scheme of the Property as a whole.

D. No landscaping or other Improvements on the Lake Lots which materially interfere with the view of the Lake by immediate neighbors who are also Lake Lot Owners shall be permitted. In its review of proposed plans and specifications of landscape design and materials for Lake Lots, including, but not limited to, any massed plantings, the Committee will take into consideration the effect on Lake views of such landscaping, both at the proposed time of installation and at the time when maximum growth shall have occurred. The only fence types allowed on the back and sides of a Lake Lot shall be an aluminum rail picket fence, with the rails no wider than one (1") inch and no closer together than three inches (3") on center and having a height of no greater than forty-eight inches (48"), unless otherwise required by applicable governmental laws, statutes, ordinances, rules or regulations. Notwithstanding anything to the contrary in this Declaration, such aluminum rail picket fence is the only type of fence which the Committee may approve for installation on the back or sides of a Lake Lot.

E. Notwithstanding any provision to the contrary in this Article, the approval of the Committee shall not be required for any additions, changes or alterations within any Homes if such additions, changes or alterations are not visible from the outside of such Homes. All changes and alterations shall be subject, independently, to all applicable governmental laws, statutes, ordinances, rules and regulations.

F. Notwithstanding anything to the contrary herein contained, no construction, reconstruction, addition or alteration by Declarant shall require the prior approval or any certificate of consent of the Committee.

Section 3. MEETINGS OF THE COMMITTEE. The Committee shall meet from time to time as necessary to perform its duties hereunder. The Committee may from time to time, by resolution unanimously adopted in writing, designate a Committee representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the Committee, except the granting of variances pursuant to Section 8 hereinbelow. In the absence of such designation, the vote of any two (2) members of the Committee shall constitute an act of the Committee.

Section 4. NO WAIVER OF FUTURE APPROVALS. The approval of the Committee of any plans and specifications or drawings for any work performed or proposed shall not be deemed to constitute a waiver of any right to withhold approval or consent to any identical or similar proposal subsequently or additionally submitted for approval or consent, whether such submission is by that applicant or another applicant. Similarly, the denial of approval by the Committee of any plans and specifications or drawings for any work done or proposed shall not be deemed to constitute a waiver of any right to approve or consent to any identical or similar proposal subsequently or additionally submitted for approval or consent, whether such submission is by that applicant or another applicant.

Section 5. COMPENSATION OF MEMBERS. The members of the Committee shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in the performance of their duties hereunder.

Section 6. INSPECTION OF WORK. Inspection of work and correction of defects therein shall proceed as follows:

A. Upon the completion of any work for which approved plans are required under this Article, the submitting party shall give written notice of completion to the Committee.

B. Within thirty (30) days after written notice of completion, the Committee or its duly authorized representatives may inspect such Improvement. If the Committee finds such work was not done in substantial compliance with the approved plans, it shall notify the submitting party in writing of such noncompliance within such thirty (30) day period, specifying the particulars of noncompliance, and shall require the submitting party to remedy such noncompliance.

C. If upon the expiration of fifteen (15) days from the date of such notification the submitting party shall have failed to remedy such noncompliance, notification shall be given to the Board in writing of such failure. Upon such notice, the Board shall determine whether there is a noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If noncompliance exists, the submitting party shall remedy or remove the same within a period of not more than thirty (30) days from the date of announcement of the Board's ruling. If the submitting party does not comply with the Board's ruling within such period, the Board, at its option, may remove the Improvement, remedy the noncompliance, or proceed in court to enjoin compliance and the submitting party shall reimburse the Association, upon demand, for all expenses incurred in connection therewith, including Interest and Legal Fees. If such expenses are not promptly repaid by the submitting party to the Association, the Board shall levy an Assessment against such submitting party for reimbursement, and said Assessment shall constitute a lien upon the applicable Lot and Home with the same force and effect as liens for Operating Expenses.

D. If, for any reason, notification is not given to the submitting party of acceptance within thirty (30) days after receipt of said written notice of completion from the

submitting party, the Improvement and/or alteration shall be deemed to be in compliance with said approved plans.

Section 7. NON-LIABILITY OF COMMITTEE MEMBERS. Neither the Committee nor any member thereof, nor its duly authorized Committee representative, nor Declarant, shall be liable to the Association or to any Owner or any other person or entity for any loss, damage or injury arising out of or in any way connected with the performance of the Committee's duties hereunder, unless due to the willful misconduct or bad faith of a member and only that member shall have any liability. The Committee's review and approval or disapproval of plans submitted to it for any proposed Improvement shall be based solely on considerations of the overall benefit or detriment to the community as a whole. The Committee shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes. Furthermore, approval by the Committee of any plans and specifications does not excuse any Owner from also receiving approvals as required by all applicable governmental agencies.

Section 8. VARIANCE. The Committee may authorize variances from compliance with any of the architectural provisions of this Declaration or any Supplemental Declaration, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may require. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration or any Supplemental Declaration shall be deemed to have occurred with respect to the Improvements for which the variance was granted.

#### ARTICLE IX MAINTENANCE AND REPAIR OBLIGATIONS

##### Section 1. BY THE ASSOCIATION.

A. The Association, at its expense, shall be responsible for the maintenance, repair and replacement of all of the Improvements and facilities located upon the Association Property, including the Recreation Tract, as otherwise provided herein. Should any incidental damage be caused to any Home by virtue of the Association's failure to maintain the Association Property as herein required or by virtue of any work which may be performed or caused to be performed by the Association in the maintenance, repair or replacement of any Association Property, the Association shall, at its expense, repair such incidental damage. The Association shall not, however, be responsible for any loss of use, any hardship, an Owner's time or any other consequential or punitive damages.

B. The Association shall operate, maintain and repair a water sprinkler system constructed over, through and upon the Association Property as it shall deem appropriate. The Association shall be responsible for the costs of operation and maintenance of such sprinkler system, including any monthly fees and other costs of water usage and the cost of repair or replacement to all or any part thereof.

The Association shall also operate, maintain and repair the water sprinkler system serving the Lots, and the Association shall be responsible to pay for the monthly fees and other costs of water usage on such Lots and shall apportion and assess such fees and costs against only such Lots as are being irrigated with water running through such central meter(s).

There is hereby reserved in favor of the Association the right to enter upon the Association Property and any and all Lots for the purpose of operating, maintaining, repairing and replacing a water sprinkler system over, through and upon the Association Property and all of the Lots within the Property.

The Association shall operate, maintain and repair the Drainage System constructed over, through and upon the Property. There is hereby reserved in favor of the Association the right to enter upon the Association Property and the Lots for the purpose of operating, maintaining, repairing, and replacing the Drainage System over, through and upon the Property. The Association shall be responsible for all costs associated with all cleaning, maintenance, repairs and replacement of any portion of the Drainage System necessary to maintain the system in its original condition and use.

The Association shall be responsible for the maintenance, repair and replacement of all private streets located upon the Association Property and there is hereby reserved in favor of the Association the right to enter upon any and all parts of the Association Property and Lots for such purpose. To the extent permitted by the appropriate governmental authority, the Association may, but shall not be obligated to, also provide maintenance of all city, County, district or municipal properties which are located within or in a reasonable proximity of the Property to the extent that their deterioration or unkempt appearance would adversely affect the appearance of the Property, including the right to enhance the landscaping in any public right of way.

D. The Association shall be responsible for the maintenance and care of the lawn encompassed within the Lot, except as otherwise provided in Article X, Section 17 hereof. "Maintenance and care" within the meaning of this subsection shall include, mowing, edging, fertilizing and spraying of lawns, and replacement of sod. Notwithstanding the obligation of the Association to maintain the landscaping within the Lots, any replacement of trees, shrubs and other plant materials within the Lots, for any reason whatsoever, shall be the obligation of the Owners of the Lot upon which such replacement is required. The Association may, at its option, discontinue replacing sod on the Lots, in which event the replacement of all sod on the Lots would become the responsibility of the Owners.

E. The Association shall be responsible for the maintenance, repair and replacement of any Privacy Fences and Hedges encompassed within the Lots, except as otherwise provided in Article X, Section 17 herein.

F. The Association shall be responsible for the maintenance, repair and replacement of any street lights and any associated facilities placed within the Property and any street lights and associated facilities placed in public rights of way by agreement between the Association and the public utility responsible therefor.

G. The Association shall also be responsible for the perpetual maintenance and care of the landscaping, including the irrigation system, on that portion of the median of Jog Road adjacent to Valencia Isles. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation, and alternate watering of Xeriscape material during periods of drought in order to maintain healthy plant material. The maintenance responsibility of any existing trees within the median shall also be the responsibility of the Association.

H. The Association shall not alter the slopes, contours, or cross sections of the Lakes, Lake banks and littoral zones or chemically, mechanically, or manually remove, damage or destroy any plants in the littoral zones except upon the written approval from the applicable governmental authority. The Association shall be responsible for maintaining the required survivorship and coverage of the planted littoral areas, to ensure the ongoing removal of prohibited and invasive non-native plant species from these areas, and to comply with all governmental regulations applicable to the Lakes, Lake banks and littoral zones.

I. The Association, by action of its Board, may make minor and insubstantial alterations and Improvements to the Association Property having a cost not in excess of Five Thousand Dollars (\$5,000). All other alterations and Improvements must first be approved by at least two-thirds (2/3) of all Owners represented in person or by proxy at a meeting called and held in accordance with the Bylaws. No alteration or Improvement may be made to the Association Property which materially and adversely affects the rights of the Owner of any Lot to the enjoyment of his Lot or the Association Property unless the Owner and all mortgagees holding recorded mortgages on such Lot consent thereto in writing.

J. All expenses incurred by the Association in connection with the services and maintenance described in Paragraphs A through H, inclusive, are Operating Expenses, payable by each Owner under the provisions of this Declaration concerning Assessments. Should the maintenance, repair or replacement provided for in Paragraphs A through H of this Section I be caused by the negligence of or misuse by an Owner, his family, guests, servants, invitees, or lessees, such Owner shall be responsible therefor, and the Association shall have the right to levy an Assessment against such Owner's Lot and said Assessment shall constitute a lien upon the appropriate Lot and Home with the same force and effect as liens for Operating Expenses.

K. The Association has a reasonable right of entry upon any Lot to make emergency repairs and to do other work reasonably necessary for the proper maintenance and operation of Valencia Isles.

Section 2. BY THE OWNERS.

A. The Owner of each Lot must keep and maintain the Lot and the Improvements thereon, including equipment and appurtenances, in good order, condition and repair, and must perform promptly all maintenance and repair work within his Home which, if omitted, would adversely affect Valencia Isles, the other Owners of the Association and its Members. The Owner of each Lot shall be responsible for any damages caused by a failure to so maintain such Lot, Improvements and Home. The Owners' responsibility for maintenance, repair and replacement shall include, but not be limited to, all of the physical structure constructed in, upon or below the Lot, and physical items attached or connected to such structure that run beyond the boundary line of the Lot which exclusively service or benefit the Lot and Home. Additionally, the painting, caulking and maintenance of the exterior surface of the walls, doors, windows and roof of the physical structure of the Home shall be done by the Owner, and the exterior surface of such walls, doors, windows and roof shall at all times be maintained in a good and serviceable condition with no damage or other defect therein by the Owner. The Owner of a Lot further agrees to pay for all utilities, such as telephone, cable television, water, sewer, sanitation, electric, etc., that may be separately billed or charged to each Home. The Owner of each Lot shall be responsible for insect and pest control within the Home. Whenever the maintenance, repair and replacement of any items which an Owner is obligated to maintain, repair or replace at his own expense is occasioned by any loss or damage which may be covered by any insurance maintained in force by the Association, the proceeds of the

insurance received by the Association shall be used for the purpose of making such maintenance, repair or replacement, except that the Owner shall be, in said instance, required to pay such portion of the costs of such maintenance, repair and replacement as shall, by reason of the applicability of any deductibility provision of such insurance or otherwise, reduce the amount of the insurance proceeds applicable to such maintenance, repair or replacement.

B. In addition to the above, Owners of all Homes shall be responsible to: fix leaks in and otherwise maintain and repair the roofs of their Homes; replace any dead or obviously dying trees on their Lots; and maintain, repair and replace any fences on their Lots, except as otherwise provided in Article IX, Section 1.E hereof. Owners of Homes shall also clean, maintain and repair the driveways located on their Lots and keep the sidewalks located on their Lots clean.

C. If a Home is damaged by fire or other casualty, its Owner shall properly and promptly restore it to at least as good a condition as it was before the casualty occurred. Any such work shall be in accordance with the original plans and specifications of the Home unless otherwise authorized by the Board and shall be otherwise subject to all provisions of Article VIII hereof.

D. Each Owner shall keep his Home insured in an amount not less than its full insurable value against loss or damage by fire or other hazards. Evidence of such coverage shall be furnished to the Association promptly upon the Board's request.

E. If an Owner fails to comply with the foregoing provisions of this Section 2, the Association may proceed in court to enjoin compliance. Further, if the failure to comply relates to the Owner's obligations to maintain insurance, the Association shall be entitled, although not obligated, to obtain the required coverage itself and to levy on the offending Owner an Assessment equal to the cost of premiums, and any such Assessment shall constitute a lien upon the applicable Lot and Home with the same force and effect as a lien for Operating Expenses.

F. If a failure to comply with the provisions of this Section 2 relates to the Owner's obligation to maintain the Home, landscaping or any other area required to be maintained by the Owner, then, in addition to the exercise of all other remedies, the Association or Declarant shall have the right but not the obligation, upon fifteen (15) days written notice, to enter the property of the Owner for the purpose of performing the maintenance referred to, set forth and described in the notice. The determination of whether an Owner is failing to properly maintain and care for the property for which he has the maintenance responsibility shall be determined in the sole discretion of the Association or Declarant. Further, the Association shall be entitled, but not obligated, to perform such maintenance and care itself and to levy on the offending Owner an Assessment equal to the cost of performing such maintenance and any such Assessment shall constitute a lien upon the applicable Lot and Home with the same force and effect as a lien for Operating Expenses.

**Section 3. DAMAGE TO BUILDINGS.** The Owner of any Home which has suffered damage may apply to the Committee for approval for reconstruction, rebuilding, or repair of the Improvements therein. The Committee shall grant such approval only if, upon completion of the work, the exterior appearance will be substantially similar to that which existed prior to the date of the casualty. If the obligation for repair falls upon the Association, the Committee approval will not be required prior to the commencement of such work, so long as the exterior appearance will be substantially similar to that which existed prior to the date of the casualty.

The owner or owners of any damaged building, the Association, and the Architectural Control Committee shall be obligated to proceed with all due diligence hereunder and the

responsible parties shall commence reconstruction within three (3) months after the damage occurs and complete reconstruction within one (1) year after the damage occurs, unless prevented by causes beyond his or its reasonable control.

The Declarant shall be exempt from the provisions of this Section 3, provided that any such reconstruction, rebuilding or repairs made by the Declarant shall be consistent, as to the exterior appearance, with the Improvements as they existed prior to the damage or other casualty.

#### ARTICLE X USE RESTRICTIONS

All of the Property shall be held, used, and enjoyed subject to the following limitations and restrictions, and any and all additional rules and regulations which may, from time to time, be adopted by the Association, except as provided in Article X, Section 19 below with respect to Parcels.

Section 1. ENFORCEMENT. Failure of an Owner to comply with any limitations or restrictions in this Declaration, or any of the Valencia Isles Documents or with any rules and regulations promulgated by the Association shall be grounds for action which may include, without limitation, an action to recover sums due for damages, injunctive relief, or any combination thereof.

In addition to all other remedies, the Association may suspend, for a reasonable period of time, the rights of any or all of an Owner or an Owner's tenants, guests or invitees to use Association Property and facilities; may suspend the voting rights of an Owner if such Owner is delinquent in payment of assessments for more than ninety (90) days; and may levy reasonable fines against any Owner or any Owner's tenant, guest or invitee for failure of such Owner, his family, guests, invitees, lessees or employees to comply with any of the Valencia Isles Documents, provided the following procedures are adhered to:

A. Notice. The Association shall notify the Owner in writing of the noncompliance and set forth the corrective action to be taken. A fine or suspension of use rights may not be imposed without notice of at least fourteen (14) days to the Owner sought to be fined or suspended and an opportunity for a hearing before a committee of at least three (3) members appointed by the Board who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother or sister of an officer, director, or employee of the Association. If the committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed. At the Association's option, any fine may be levied on a daily basis in the event of a continuing violation without the necessity of a new hearing and without any limitation on the amount of such fine.

B. Hearing. Should the Owner still be in noncompliance, the noncompliance shall be presented to the Board after which the Board shall hear reasons why a fine should or should not be imposed. A written decision of the Board shall be submitted to the Owner, as applicable, not later than twenty-one (21) days after said meeting.

C. Payment. A fine shall be paid not later than thirty (30) days after notice of the imposition of the fine.

D. Fines. A fine shall be treated as an Assessment subject to the provisions of the collection of Assessments as otherwise set forth herein, and shall constitute a lien upon the applicable Lot and Home, with the same force and effect as a lien for Operating Expenses. All monies received from fines shall be allocated as directed by the Board, subject always to the provisions of this Declaration.

E. Failure to Pay Assessments. Notice and Hearing as provided in Subparagraphs A and B above shall not be required with respect to the imposition of suspension of use rights or fines upon any Owner because such Owner's failure to pay Assessments or other charges when due.

F. Access. Suspension of use rights to Association Property shall not impair the right of an Owner or tenant of a Lot and/or Home to have vehicular and pedestrian ingress to and egress from such Lot and/or Home, including, but not limited to, the right to park.

Section 2. OCCUPANCY OF HOME. The Fair Housing Amendments Act of 1988 (Public Law 100-430, approved September 13, 1988) ("Fair Housing Act"), which became effective in March, 1989, and as amended effective December 31, 1995, provides that communities cannot reject families with children. However, the Fair Housing Act provides that a community is exempt from this prohibition if (a) at least eighty percent (80%) of the units are occupied by at least one (1) person fifty-five (55) years of age or older per unit; and (b) the community has published and adheres to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five (55) years of age or older (hereinafter collectively referred to as the "Requirements for Exemption"). For so long as such provisions of the Fair Housing Act are in effect, Declarant intends that Valencia Isles will be a community which falls within this exemption to the Fair Housing Act (the "Exemption") and may therefore prohibit families with children nineteen (19) years of age or younger from residing in Valencia Isles. Therefore, for so long as such provisions of the Fair Housing Act are in effect, except as hereinafter provided, (i) at least one occupant in each Home in Valencia Isles must be at least fifty-five (55) years of age or older, except as hereinafter set forth; and (ii) the Association must publish and adhere to policies and procedures which demonstrate an intent by the Association to provide housing for persons fifty-five (55) years of age or older.

A. Board Discretion. The Requirements for Exemption contemplate that up to twenty percent (20%) of the units may be occupied by persons all of whom are under the age of fifty-five (55) without loss of the Exemption. Accordingly, the Board, upon application by an Owner, tenant, purchaser or proposed lessee, shall have absolute discretion to allow a Home to be occupied only by individuals under the age of fifty-five (55) based upon criteria that the Board shall determine, which criteria shall include, by way of example and not of limitation, information then known to the Board concerning potential or pending changes in occupancy of other Homes in Valencia Isles, if any, due to known adverse medical conditions or domestic relations and the ages of any likely remaining occupants of such Homes; other known prospective changes in occupancy of Homes for whatever reasons; proximity to age fifty-five (55) of those occupants of other Homes in Valencia Isles then under such age; and any other information known to and deemed relevant by the Board in carrying out its duty to monitor and control the percentage of the Homes becoming occupied only by persons under the age of fifty-five (55). However, for so long as the age provisions of the Fair Housing Act are in effect, the Board shall comply with the Requirements for Exemption.

including, but not limited to, insuring that not more than twenty percent (20%) of the Homes in Valencia Isles are occupied only by individuals under the age of fifty-five (55).

B. Declarant Rights: Limitations. Notwithstanding the provisions of Paragraph A above, Declarant shall have the right to convey a Home owned by Declarant to a purchaser who intends that the Home be occupied only by persons under fifty-five (55) years of age provided that, for so long as the Fair Housing Act is in effect, after the conveyance not more than twenty percent (20%) of the Homes shall be occupied only by persons under fifty-five (55). Such Home shall, at the first change of occupancy thereafter, be subject to the requirement that at least one (1) occupant be fifty-five (55) years of age or older unless waived by the Board pursuant to the provisions of Paragraph A above.

Board Responsibility. It shall be the responsibility of the Board to monitor the percentage of Homes with occupants all of whom are under the age of fifty-five (55) to insure that the Board does not permit more than twenty percent (20%) of the Homes in Valencia Isles to be occupied only by persons under the age of fifty-five (55). The Board shall have the right to promulgate rules and regulations necessary to comply with the Requirements for Exemption so that the provisions of subparagraph E hereof limiting the number of days that children nineteen (19) years of age or younger may stay in a Home are enforceable.

D. Owner Responsibility. No Owner may lease or sell his Home unless at least one (1) of the intended occupants is fifty-five (55) years of age or older at the time of the occupancy, and such Owner shall submit an age verification form to the Association prior to the effective date of such occupancy which sets forth the ages of the intended occupants. The Board, however, shall have the right, in its sole discretion, to waive this requirement based upon criteria in accordance with the provisions set forth in Paragraph A hereof, but not if more than twenty percent (20%) of the Homes will not have at least one (1) occupant fifty-five (55) years of age or older. In the event there is a change in the occupants of the Home (e.g., a death or a divorce) so that at least one (1) of the occupants is no longer fifty-five (55) years of age or older, the Owner must immediately notify the Association of said change in writing.

E. Children. As long as Valencia Isles falls within the Exemption, no children nineteen (19) years of age or younger shall be permitted to reside in any of the Homes, except for a period of time not to exceed a total of sixty (60) days per calendar year. In addition, children shall be allowed to play only in those areas of Valencia Isles designated from time to time by the Association.

F. Notwithstanding anything contained herein to the contrary, it is acknowledged and agreed that, although it is the intent of Declarant and the Association that Valencia Isles falls within the Exemption so that persons nineteen (19) years of age or younger will be prohibited from residing within Valencia Isles, no representation or warranty is given that Valencia Isles will comply with the Exemption, and in the event for any reason it is determined that Valencia Isles does not fall within the Exemption, and therefore it is unlawful to discriminate against families with children nineteen (19) years of age or younger, neither Declarant nor the Association shall have any liability in connection therewith.

Section 3. NUISANCES. No obnoxious or offensive activity shall be carried on or about the Lots or in or about any Improvements, Homes, or on any portion of Valencia Isles nor shall anything

be done therein which may be or become an unreasonable annoyance or a nuisance to any Owner. No use or practice shall be allowed in or around the Homes which is a source of annoyance to Owners or occupants of Homes or which interferes with the peaceful possession or proper use of the Homes or the surrounding areas. No loud noises or noxious odors shall be permitted in any Improvements, Homes or Lots. Without limiting the generality of any of the foregoing provisions, no horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes), noisy or smoky vehicles, unlicensed off-road motor vehicles or any items which may unreasonably interfere with television or radio reception of any Owner shall be located, used or placed on any Lot, or exposed to the view of other Owners without the prior written approval of the Board. Notwithstanding anything to the contrary herein, so long as any activity which is carried on a Parcel is allowable within applicable zoning regulations, no such activity shall be deemed a nuisance hereunder.

Section 4. PARKING AND VEHICULAR RESTRICTIONS. Parking upon the Property shall be restricted to the drive and garage located upon each Lot and designated parking areas within the Association Property. No parking on the streets or swales is permitted. No Owner shall keep any vehicle on any Lot which is deemed to be a nuisance by the Board. No Owner shall conduct repairs taking more than twenty-four (24) hours (except in an emergency or except within the garage of the Home with the garage door closed) or restorations of any motor vehicle, boat, trailer, or other vehicle upon any Lot. No commercial vehicle, trailer, boat or boat trailer may be parked or stored on the Property except in the garage of a Home located upon a Lot. No bus or tractor-trailer or any other truck larger than a full-size pickup truck may be parked on the Property, except temporarily as in the case of a moving van or other such vehicle necessary to provide service to an Owner and with the exception of any vehicles necessary for any construction activity being performed by or on behalf of Declarant.

Section 5. NO IMPROPER USE. No improper, offensive, hazardous or unlawful use shall be made of any Home nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to any person using any portion of the Property. All valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereover shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereover relating to any Home or Lot shall be corrected by, and at the sole expense of, the Home's or Lot's owner.

Section 6. LEASES. No portion of a Home (other than an entire Home) may be rented. All leases shall provide, and if they do not so provide then the leases shall be deemed to provide, that the Association shall have the right to terminate the lease upon default by the tenant in observing any of the provisions of this Declaration, the Articles, the Bylaws, applicable rules and regulations, or of any other agreement, document or instrument governing the Lots or Homes. The owner of a leased Home shall be jointly and severally liable with his tenant for compliance with the Valencia Isles Documents and to the Association to pay any claim for injury or damage to property caused by the negligence of the tenant. Every lease shall be subordinated to any lien filed by the Association whether before or after such lease was entered into.

Section 7. ANIMALS AND PETS. Only common domesticated household pets may be kept on any Lot or in a Home, but in no event for the purpose of breeding or for any commercial purposes whatsoever. No other animals, livestock, reptiles or poultry of any kind shall be kept, raised, bred or maintained on any portion of the Property. Permitted pets shall only be kept subject to and in accordance with such rules and regulations as shall be promulgated from time to time by the Board.

Under no circumstances may a pit bull be permitted on the Property. Any pet must be carried or kept on a leash when outside of a Home or fenced-in area. No pet shall be kept tied up outside of a Home or in any screened porch or patio, unless someone is present in the Home. An Owner shall immediately pick up and remove any solid animal waste deposited by his pet on the Property. An Owner is responsible for the cost of repair or replacement of any Association Property damaged by his pet.

Each Owner who determines to keep a pet thereby agrees to indemnify the Association and Declarant and hold them harmless against any loss or liability of any kind or character whatsoever arising from or growing out of his having any animal on the Property.

Section 8. ADDITIONS AND ALTERATIONS. No Home shall be enlarged by any addition thereto or to any part thereof, and no Owner shall make any improvement, addition, or alteration to the exterior of his Home, including, without limitation, the painting, staining, or varnishing of the exterior of the Home, including doors, garage doors, driveways and walkways, without the prior written approval of (i) the Committee as set forth in Article VIII of this Declaration, which approval may be withheld for purely aesthetic reasons, and (ii) all applicable governmental entities.

Section 9. INCREASE IN INSURANCE RATES. No Owner may engage in any action which may reasonably be expected to result in an increase in the rate of any insurance policy or policies covering or with respect to any portion of the Property not owned by such Owner.

Section 10. SLOPES AND TREES. No Owner may engage in any activity which will change the slope or drainage of a Lot. No additional trees are permitted to be planted on the Property without the prior written consent of Declarant for as long as Declarant owns a Lot, and thereafter without the prior written consent of the Board.

Section 11. SIGNS. No sign, display, poster, or other advertising device of any kind may be displayed in public view of any portion of any building or other Improvement in the Property without the prior written consent of the Board. Signs, regardless of size, used by Declarant, its successors or assigns, for advertising during the construction and sale period of Valencia Isles or other communities developed and/or marketed by Declarant or its affiliates and other signs authorized by Declarant shall be exempt from this Section. Such sign or signs as Declarant may be required to erect under the terms of an Institutional Mortgage shall be exempt from this Section.

Section 12. TRASH AND OTHER MATERIALS. No rubbish, trash, garbage, refuse, or other waste material shall be kept or permitted on the Lots and/or Association Property, or other portions of the Property, except in sanitary, self-locking containers located in appropriate areas, and no odor shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, offensive, detrimental or a nuisance to Owners or to any other property in the vicinity thereof or to its occupants. No clothing or other household items shall be hung, dried, or aired in such a way as to be visible from the Association Property or another Lot. No stripped vehicles, lumber or other building materials, grass, tree clippings, metals, scrap automobile pieces or parts, refuse, or trash shall be stored or allowed to accumulate on any portion of the Property (except when accumulated during construction by Declarant, during construction approved by the Committee, or when accumulated by the Association for imminent pick-up and discard).

Section 13. TEMPORARY STRUCTURES. No tent, shack, shed or other temporary building or Improvement, other than separate construction and sales trailers to be used by Declarant, its agents and contractors, for the construction, service and sale of Valencia Isles or other communities, shall be placed upon any portion of the Property, either temporarily or permanently. No trailer, motor home or recreational vehicle shall be: (a) used as a residence, either temporarily or permanently, or (b) parked upon the Property.

Section 14. OIL AND MINING OPERATIONS. No oil drilling, oil development operations, oil refining, boring or mining operations of any kind shall be permitted upon or on any Lot nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

Section 15. SEWAGE DISPOSAL. No individual sewage disposal system shall be permitted on any of the Property, provided that a central sewage disposal system is being operated in accordance with the requirements of the governmental regulatory body having jurisdiction over said central system.

Section 16. WATER SUPPLY. No individual water supply system shall be permitted on any of the Property, provided that a central water supply system is being operated in accordance with requirements of the governmental body having jurisdiction over said central system, except that wells are permitted for the irrigation of landscaping only, provided that a stain tank is installed in conjunction with the irrigation well.

Section 17. FENCES. Any fence placed upon any Lot must be approved by the Committee, as provided in Article VIII hereof, prior to installation. In no event may a fence be placed in the area between the front of a Home and the Street, Drive, Road or Roadway at the front of the Lot on which the Home is situated. The Owner assumes complete responsibility to maintain the fence, including, but not limited to, trimming any grass, ivy or other plants from the fence. In the event the Committee approves the installation of a fence, it shall also have the right to require installation of landscaping, also subject to the Committee's approval, at the time the fence is installed.

Notwithstanding that an Owner has obtained the approval of the Committee to install a fence or landscape materials, as provided hereinabove, such installation shall be at the Owner's sole risk so long as Declarant has not yet begun or is engaged in the construction of a Home on an adjacent Lot. In the event such construction activity on an adjacent Lot causes damage to or destruction of such Owner's fence or landscape materials or any part thereof, the Owner on whose Lot the fence and/or landscaping has been damaged shall be required, at the Owner's expense, to repair or replace such fence and/or landscape materials in conformance with the requirements of the Committee's approval of the initial installation of the fence and/or landscape materials and Declarant shall have no liability for any such damage or destruction. Such repair or replacement shall commence as soon as construction on the adjacent Lot has been completed and shall be pursued with due diligence. For purposes of this paragraph, the term "landscape materials" shall include landscape materials located on or adjacent to any property line of a Lot, including, by way of example and not of limitation, hedges, shrubs and trees, whether associated with a fence or not.

In addition, the installation of any fence placed upon any Lot is subject to easements which run with the land. In the event the grantee of any such easement which runs with the land (i.e., FPL),

its successors and/or assigns, requires the removal of any fence upon the Lot, then the Owner of said Lot shall, at the Owner's sole cost and expense, immediately remove the fence. The Owner of a Lot in installing any fence upon the Lot shall comply with all valid laws, zoning ordinances and regulations of the city and County governmental bodies, as applicable, in addition to the Committee approval required by Article VIII hereof.

Notwithstanding anything contained to the contrary in this Declaration, an Owner of a Lot who elects to install a fence on any portion of his Lot shall be responsible for the maintenance and care of the lawn and landscaping and Hedge, if any, in the portion of the Lot which becomes enclosed by the fence construction, provided, however, the Association shall remain responsible to maintain the Privacy Fence, if any, located within any such Lot. Such Owner of a Lot shall not be entitled to a reduction in Assessments in turn for being responsible for such maintenance and care. "Maintenance and care" within the meaning of this subsection shall include, by way of example and not of limitation, mowing, edging, fertilizing and spraying of lawns, maintenance of the irrigation system, replacement of sod and the trimming, fertilizing and spraying of any Hedge. In the event the Owner fails to properly maintain his Lot and/or Home pursuant to this subparagraph, then the Association or Declarant shall have the right but not the obligation, upon fifteen (15) days written notice, to enter the property of the Owner for the purpose of performing the maintenance referred to, set forth and described in the notice. The determination of whether an Owner is failing to properly maintain and care for the property for which he has the maintenance responsibility shall be determined in the sole discretion of the Association or Declarant. Further, if failure to comply relates to the Owner's obligations to maintain and care for his property, the Association shall be entitled, but not obligated, to perform such maintenance and care itself and to levy on the offending Owner an Assessment equal to the cost of performing such maintenance and any such Assessment shall constitute a lien upon the applicable Lot and Home with the same force and effect as a lien for Operating Expenses.

**Section 18. ANTENNAE.** No antennae, microwave receiving devices or satellite receiving devices shall be permitted to be placed or erected on any Lot or other portion of the Property. In the event applicable law requires that the Association permit any such device, such device shall be deemed an Improvement subject to all of the other requirements of the Declaration, applicable rules and regulations of the Association, and the Committee to the maximum extent permitted by law.

**Section 19. DECLARANT EXEMPTION.** Declarant plans to undertake the work of constructing Homes and Improvements upon the Property and may undertake the work of constructing other buildings upon adjacent land or other property being developed or marketed by Declarant or its affiliates. The completion of that work and the sale, rental and other transfer of Homes is essential to the establishment and welfare of the Property as a residential community. In order that such work may be completed and a fully occupied community established as rapidly as possible, neither the Owners, the Association, nor the Architectural Control Committee shall do anything to interfere with Declarant's activities.

In general, the restrictions and limitations set forth in this Article X shall not apply to the Declarant or to Lots owned by the Declarant. Declarant shall specifically be exempt from any restrictions which interfere in any manner whatsoever with Declarant's plans for development, construction, sale, lease, or use of the Property and to the improvements thereon. Declarant shall be entitled to injunctive relief for any actual or threatened interference with its rights under this Article X in addition to whatever remedies at law to which it might be entitled.

ARTICLE XI  
SALES, LEASES AND CONVEYANCES

In order to assure that Valencia Isles be a community of congenial and responsible residents and that prospective purchasers will comply with the requirements of the Declaration and thus protect the value of the Homes, the sale, lease or transfer of Homes shall be subject to the following provisions.

Upon the sale, lease or transfer of a Home within Valencia Isles, the Owner of the Home shall submit an age verification form to the Association prior to the effective date of the sale, lease or transfer of said Home. The age verification form shall be supplied by the Association and shall provide for the ages of the intended occupants and such other information as the Association may reasonably require. In accordance with Article X.2. D hereof, except as herein provided, an Owner shall not sell, lease or transfer his Home unless at least one (1) of the intended occupants of such Home is fifty-five (55) years of age or older at the time of occupancy. However, the Board shall have the right, in its sole discretion, to waive this requirement based upon criteria in accordance with the provisions set forth in Article X.2.D hereof, but not if more than twenty percent (20%) of the Homes in Valencia Isles will not have an occupant fifty-five (55) years of age or older. The Association will have thirty (30) days to approve the sale, lease or transfer of a Home and such approval shall be in writing and in recordable form, signed by any two (2) officers of the Association and shall be given to the intended occupant. If the Association does not approve the sale, lease or transfer of a Home within the thirty (30) day period, then the sale, lease or transfer of a Home shall be deemed denied.

ARTICLE XII  
DAMAGE OR DESTRUCTION TO ASSOCIATION PROPERTY

Damage to or destruction of all or any portion of the Association Property shall, notwithstanding any provision in this Declaration to the contrary, be handled as follows:

A. If insurance proceeds are sufficient to effect total restoration of damaged or destroyed Association Property, then the Association shall cause such Association Property to be repaired and reconstructed substantially as it previously existed.

B. If insurance proceeds are insufficient to effect total restoration, and the cost of restoration exceeds such proceeds by Twenty-Five Thousand Dollars (\$25,000.00) or less, then the Association shall cause the Association Property to be repaired and reconstructed substantially as it previously existed and the difference between the insurance proceeds and the actual cost shall be levied as a Special Assessment proportionately against each of the Lots in accordance with the provisions of Articles VI and VII herein.

C. If the insurance proceeds are insufficient to effect total restoration and the cost of restoration of the Association Property exceeds said proceeds by over Twenty-Five Thousand Dollars (\$25,000.00), then by the written consent or vote of a majority of the voting interests, they shall determine whether: (a) to rebuild and restore either (i) in substantially the same manner as the Improvements existed prior to the damage or destruction; or (ii) in a manner less expensive, and in the event of (i) or (ii) to raise the necessary rebuilding and restoration funds by levying pro rata restoration and construction Special Assessments against all Lots; or (b) to not rebuild and to retain

available insurance proceeds. In the event it is decided that the damaged or destroyed Association Property shall not be rebuilt, the remains of any structure or structures shall be torn down and hauled away, so as not to be a safety hazard or visual nuisance, and the land shall be fully sodded and landscaped or otherwise treated in an attractive manner. Notwithstanding anything contained herein to the contrary, any decision not to rebuild or to rebuild in a manner which would result in a change in the improvements shall not be effective without the prior written approval of Declarant as long as Declarant owns any portion of the Property.

D. Each Owner shall be liable to the Association for any damage to the Association Property not fully covered or collected by insurance which may be sustained by reason of the negligence or willful misconduct of said Owner or of his family, lessees, invitees and guests, both minors and adults.

In the event that the repairs and replacements were paid for by any Special Assessments as well as insurance proceeds and regular Assessments, then, if after the completion of and payment for the repair, replacement, construction or reconstruction there shall remain any excess in the hands of the Association, it shall be presumed that the monies disbursed in payment of any repair, replacement, construction and reconstruction were first disbursed from insurance proceeds and regular Assessments and any remaining funds shall be deemed to be the remaining Special Assessments which shall be returned to the Owners by means of a *pro rata* distribution in accordance with the collection of such Special Assessments.

#### ARTICLE XIII INSURANCE AND CONDEMNATION

The Association shall purchase and maintain the following insurance coverages subject to the following provisions, and the cost of the premiums therefor shall be a part of the Operating Expenses:

Section 1. CASUALTY INSURANCE. Property and casualty insurance in an amount equal to the then full replacement cost, exclusive of land, foundation, excavation and other items normally excluded from such coverage, of all Improvements and personal property which are owned by the Association and now or hereafter located upon the Association Property, which insurance shall afford protection against such risks, if any, as shall customarily be covered with respect to areas similar to the Association Property in developments similar to Valencia Isles in construction, location and use.

Section 2. PUBLIC LIABILITY INSURANCE. A comprehensive policy of public liability insurance naming the Association and, until Declarant no longer owns any Lot with the Property, Declarant as named insureds thereof insuring against any and all claims or demands made by any person or persons whomsoever for personal injuries or property damage received in connection with, or arising from, the operation, maintenance and use of the Association Property and any Improvements located thereon, and for any other risks insured against by such policies with limits of not less than One Million Dollars (\$1,000,000.00) for damages incurred or claimed by any one person for any one occurrence; not less than Three Million Dollars (\$3,000,000.00) for damages incurred or claimed by more than one person for any one occurrence; and for not less than Fifty Thousand Dollars (\$50,000.00) property damage per occurrence with no separate limits stated for the number of claims. The Association may also obtain worker's compensation insurance and other

liability insurance including, but not limited to, insurance for lawsuits related to employment contracts in which the Association is a party, as it may deem desirable.

Section 3. FIDELITY COVERAGE. Adequate fidelity coverage to protect against dishonest acts of the officers and employees of the Association and the Board and all others who handle and are responsible for handling funds of the Association shall be maintained in the form of fidelity bonds, which requirements shall be reasonably determined by the Board.

Section 4. DIRECTORS' COVERAGE. Adequate directors' and officers' liability coverage, which coverage shall be effective from and after the date the Association is created.

Section 5. OTHER INSURANCE. The Board may obtain such other forms of insurance as the Board may determine and in such coverage amounts as the Board shall determine to be required or beneficial for the protection or preservation of the Association Property and any improvements now or hereafter located thereon or in the best interests of the Association and/or its officers and directors.

Section 6. CANCELLATION OR MODIFICATION. All insurance policies purchased by the Association shall provide that they may not be canceled (including for nonpayment of premiums) or substantially modified without at least ten (10) days prior written notice to the Association and to each first mortgage holder, if any, named in the mortgage clause.

Section 7. FLOOD INSURANCE. If determined appropriate by the Board or if required by an Institutional Mortgagee, a master or blanket policy of flood insurance covering the Association Property, if available under the National Flood Insurance Program, shall be purchased, which flood insurance shall be in the form of a standard policy issued by a member of the National Flood Insurers Association, and the amount of the coverage of such insurance shall be the lesser of the maximum amount of flood insurance available under such program, or one hundred percent (100%) of the current replacement cost of all buildings and other insurable property located in the flood hazard area.

Section 8. CONDEMNATION. In the event the Association receives any award or payment arising from the taking of any Association Property or any part thereof as a result of the exercise of the right of condemnation or eminent domain, the net proceeds thereof shall first be applied to the restoration of such taken areas and improvements thereon to the extent deemed advisable by the Board and approved by at least two-thirds (2/3) of the total voting interests, and the remaining balance thereof, if any, shall then be distributed pro rata to Owners and mortgagees of Lots as their respective interests may appear.

Section 9. WAIVER OF SUBROGATION. As to each policy of insurance maintained by the Association which will not be voided or impaired thereby, the Association hereby waives and releases all claims against the Board, the Owners, the Declarant and the agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement of said persons, but only to the extent that such insurance proceeds are received in compensation for such loss.

ARTICLE XIV  
GENERAL PROVISIONS

**Section 1. CONFLICT WITH OTHER VALENCIA ISLES DOCUMENTS.** In the event of any conflict between the provisions hereof and the provisions of the Articles and/or Bylaws and/or rules and regulations promulgated by the Association, the provisions of this Declaration shall control.

**Section 2. NOTICES.** Any notice or other communication required or permitted to be given or delivered hereunder shall be deemed properly given and delivered upon the mailing thereof by United States mail, postage prepaid, to: (i) each Owner, at the address of the person whose name appears as the Owner on the records of the Association at the time of such mailing and, in the absence of any specific address, at the address of the Home owned by such Owner; (ii) the Association, certified mail, return receipt requested, at 1401 University Drive, Suite 200, Coral Springs, Florida 33071, or such other address as the Association shall hereinafter notify Declarant and the Owners in writing; and (iii) Declarant, certified mail, return receipt requested, at 1401 University Drive, Suite 200, Coral Springs, Florida 33071, or such other address or addresses as Declarant shall hereafter notify the Association of in writing, any such notice to the Association of a change in Declarant's address being deemed notice to the Owners.

**Section 3. ENFORCEMENT.** The covenants and restrictions herein contained may be enforced by Declarant (so long as Declarant holds an equitable or legal interest in any Lot and/or Home), the Association, any Owner and any Institutional Mortgagee holding a mortgage on any portion of the Property in any judicial proceeding seeking any remedy recognizable at law or in equity, including damages, injunction or any other form of relief against any person, firm or entity violating or attempting to violate any covenant, restriction or provision hereunder. The failure by any party to enforce any such covenant, restriction or provision herein contained shall in no event be deemed a waiver of such covenant, restriction or provision or of the right of such party to thereafter enforce such covenant, restriction or provision. The prevailing party in any such litigation shall be entitled to all costs thereof including, but not limited to, Legal Fees.

**Section 4. INTERPRETATION.** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community and for the maintenance of recreational facilities and Association Property. Article, Section and Paragraph captions, headings and titles inserted throughout this Declaration are intended as a matter of convenience only and in no way shall such captions, headings or titles define, limit or in any way affect the subject matter or any of the terms and provisions thereunder or the terms and provisions of this Declaration.

Whenever the context so requires or permits, any pronoun used herein may be deemed to mean the corresponding masculine, feminine or neuter form thereof, and the singular form of any nouns and pronouns herein may be deemed to mean the corresponding plural form thereof and vice versa.

**Section 5. SEVERABILITY.** In the event any of the provisions of this Declaration shall be deemed invalid by a court of competent jurisdiction, said judicial determination shall in no way affect any of the other provisions hereof, which shall remain in full force and effect, and any provisions of this Declaration deemed invalid by a court of competent jurisdiction by virtue of the term or scope thereof shall be deemed limited to the maximum term and scope permitted by law.

In the event that any court should hereafter determine that any provision of this Declaration is in violation of the rule of property known as the "rule against perpetuities" or any other rule of law because of the duration of a time period, such provision shall not thereby become invalid, but instead the duration of such time period shall be reduced to the maximum period allowed under such rule of law, and in the event the determination of the duration of such time period requires measuring lives, such measuring life shall be that of the incorporator of the Association.

Section 6 CERTAIN RIGHTS OF DECLARANT. Notwithstanding anything to the contrary herein contained, no Improvements constructed or installed by Declarant shall be subject to the approval of the Association or the Owners or the provisions and requirements of this Declaration, although it is the intent of Declarant to create a community with a common scheme of development. Notwithstanding the other provisions of this Declaration, Declarant reserves for itself, and Declarant and its nominees shall have, the right to enter into and transact on the Property any business necessary to consummate the sale, lease or encumbrance of Homes or real property within or outside Valencia Isles including, but not limited to, the right to maintain models and a sales and/or leasing office, a construction office and/or a service office, place signs, employ sales, leasing, construction and service personnel use the Association Property and show Homes, and Declarant further reserves the right to make repairs to the Association Property and to carry on construction activity for the benefit of the Property. Declarant, and its nominees, may exercise the foregoing rights without notifying the Association. Any such models, sales and/or leasing office, construction office, service office, signs and any other items pertaining to such sales, leasing, construction or service efforts shall not be considered a part of the Association Property and shall remain the property of Declarant. This Section 6 may not be suspended, superseded or modified in any manner by any amendment to this Declaration unless such amendment is consented to in writing by Declarant. This right of use and transaction of business as set forth herein and the other rights reserved by Declarant in the Valencia Isles Documents may be assigned in writing by Declarant in whole or in part. For the purposes of this Section 6, the term "Declarant" shall include any "Lender" which has loaned money to Declarant to acquire or construct Improvements upon the Property, or its successors and assigns if such Lender, its successors or assigns, acquires title to any portion of the Property as a result of the foreclosure of any mortgage encumbering any portion of the Property securing any such loan to Declarant, or acquires title thereto by deed in lieu of foreclosure. The rights and privileges of Declarant as set forth in this Section 6, which are in addition to, and are no way a limit on, any other rights or privileges of Declarant under any of the Valencia Isles Documents, shall terminate upon Declarant no longer owning any portion of the Property (and having any equitable or legal interest therein) or upon such earlier date as Declarant shall notify the Association in writing of Declarant's voluntary election to relinquish the aforesaid rights and privileges.

Declarant shall also have the right, but not the obligation, to conduct inspections and tests from time to time of all or any portion of the Association Property in order to ascertain the physical condition of the Improvements and to determine if maintenance, repair or replacement of any such Improvement is indicated. If Declarant conducts any such tests or inspections, it shall pay all costs thereof, restore the affected portion of the Property to its condition immediately prior to the inspections and tests, and shall indemnify the Association and Owner(s) of any affected Home(s) and/or Lot(s) from any damages resulting therefrom. Declarant shall have such rights of entry on, over, under, across and through the Property as may be reasonably necessary to exercise the rights described in this Section 6. Declarant's right of inspection shall exist whether or not the Turnover Date has occurred. In the event Declarant exercises its inspection right, it is acknowledged by the Association and all Owners that Declarant is performing any such inspection for its own benefit and

not for the benefit of the Association and/or the Owners and further, Declarant shall have no obligation to inform the Association and/or the Owners of the result of any such inspection.

Section 7. DISPUTES AS TO USE. In the event there is any dispute as to whether the use of the Property or any portion or portions thereof complies with the covenants, restrictions, easements or other provisions contained in this Declaration, such dispute shall be referred to the Board, and a determination rendered by the Board with respect to such dispute shall be final and binding on all parties concerned therewith. Notwithstanding anything to the contrary herein contained, any use by Declarant of the Property shall be deemed a use which complies with this Declaration and shall not be subject to a contrary determination by the Board.

Section 8. AMENDMENT AND MODIFICATION. The process of amending or modifying this Declaration shall be as follows:

1. Until the Turnover Date, all amendments or modifications shall only be made by Declarant without the requirement of the Association's consent or the consent of the Owners so long as such amendments or modifications do not materially impair the common plan of development of Valencia Isles; provided, however, that the Association shall, forthwith upon request of Declarant, join in any such amendments or modifications and execute such instruments to evidence such joinder and consent as Declarant shall, from time to time, request.

2. After the Turnover Date, this Declaration may be amended by: (i) the consent of the Owners owning two-thirds (2/3) of all Lots, together with (ii) the approval or ratification of a majority of the Board. The aforementioned consent of the Owners owning two-thirds (2/3) of the Lots may be evidenced by a writing signed by the required number of Owners or by the affirmative vote of the required number of Owners at any regular or special meeting of the Association called and held in accordance with the Bylaws and evidenced by a certificate of the Secretary or an Assistant Secretary of the Association.

3. Amendments for correction of scrivener's errors or other nonmaterial changes may be made by Declarant alone until the Turnover Date and by the Board thereafter and without the need of consent of the Owners.

4. Notwithstanding anything to the contrary herein contained, no amendment to this Declaration shall be effective which shall impair or prejudice the rights or priorities of Declarant, the Association or of any Institutional Mortgagee under the Valencia Isles Documents without the specific written approval of such party affected thereby. Finally, notwithstanding anything to the contrary contained herein, no amendment to this Declaration shall be effective which shall eliminate or modify the provisions of Section 6 of this Article XIV and any such amendment shall be deemed to impair and prejudice the rights of Declarant.

5. A true copy of any Amendment to this Declaration shall be sent certified mail by the Association to Declarant and to all Institutional Mortgagees holding a mortgage on any portion of the Property requesting notice. The amendment shall become effective upon the recording amongst the Public Records of the County of said amendment or any Supplemental Declaration to this Declaration which sets forth any amendment or modification to this Declaration.

6. Notwithstanding anything contained herein to the contrary, Declarant may, without the consent of any Owners, file any amendments which may be required by an Institutional Mortgagee for the purpose of satisfying its development criteria or such other criteria as may be established by such mortgagee's secondary mortgage market purchasers, including, without limitation, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation; provided, however, any such Declarant's filed amendments must be in accordance with any applicable rules, regulations and other requirements promulgated by the United States Department of Housing and Urban Development.

7. Any proposed amendment to the Declaration which would affect the surface water management system (including environmental conservation areas and the water management portions of the Association Property), shall be submitted to the South Florida Water Management District for a determination of whether the proposed amendment necessitates a modification of the surface water management permit.

Section 9. DELEGATION. The Association, pursuant to a resolution duly adopted by the Board, shall have the continuing authority to delegate all or any portion of its responsibilities for maintenance, operation and administration, as provided herein, to any managing agency or entity selected by the Board from time to time and whether or not related to Declarant.

Section 10. TERM. This Declaration and the terms, provisions, conditions, covenants, restrictions, reservations, regulations, burdens and liens contained herein shall run with and bind the Property, and inure to the benefit of Declarant, the Association and the Owners and their respective legal representatives, heirs, successors and assigns for a term of fifty (50) years from the date of recording this Declaration amongst the Public Records of the County, after which time this Declaration shall be automatically renewed and extended for successive periods of ten (10) years each unless at least one (1) year prior to the termination of such fifty (50)-year term or any such ten (10)-year extension there is recorded amongst the Public Records of the County an instrument agreeing to terminate this Declaration signed by Owners owning two-thirds (2/3) of the Lots and Institutional Mortgagees holding first mortgages encumbering two-thirds (2/3) of all Lots encumbered by first mortgages held by Institutional Mortgagees, upon which event this Declaration shall be terminated upon the expiration of the fifty (50)-year term or the ten (10)-year extension during which such instrument was recorded.

In the event this Declaration is terminated or the Association ceases to exist for any reason, the Owners shall be jointly and severally responsible for the costs to maintain and shall maintain the Association Property in the manner described herein. This provision may not be amended or deleted without the prior written consent of the County and this provision shall survive the termination of this Declaration and shall run with the Property in perpetuity.

Section 11. RIGHTS OF MORTGAGEES.

A. Right to Notice. The Association shall make available for inspection upon request, during normal business hours or under reasonable circumstances, the Valencia Isles Documents and the books, records and financial statements of the Association to Owners and the holders, insurers or guarantors of any first mortgages encumbering any portion of the Property. In addition, evidence of insurance shall be issued to each Owner and mortgagee holding a mortgage encumbering a Home upon written request to the Association.

B. **Rights of Listed Mortgagee.** Upon written request to the Association, identifying the name and address of the holder, insurer, or guarantor (such holder, insurer or guarantor is herein referred to as a "Listed Mortgagee") of a mortgage encumbering a Lot and the legal description of such Lot, the Association shall provide such Listed Mortgagee with timely written notice of the following:

- (1) Any condemnation, loss or casualty loss which affects any material portion of the Association Property;
- (2) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;
- (3) Any proposed action which would require the consent of mortgagees holding a mortgage encumbering a Lot; and
- (4) Any failure by an Owner owning a Lot encumbered by a mortgage held, insured or guaranteed by such Listed Mortgagee to perform his obligations under the Valencia Isles Documents, including, but not limited to, any delinquency in the payment of Assessments, or any other charge owed to the Association by said Owner where such failure or delinquency has continued for a period of sixty (60) days.

C. **Right of Listed Mortgagee to Receive Financial Statement.** Any Listed Mortgagee shall, upon written request made to the Association, be entitled to financial statements of the Association for the prior fiscal year free of charge and the same shall be furnished within a reasonable time following such request.

**Section 12. APPROVAL OF ASSOCIATION LAWSUITS BY OWNERS.** Notwithstanding anything contained herein to the contrary, in order to prevent the Board from incurring expenses not contemplated by the Valencia Isles Documents, the Association shall be required to obtain the approval of three-fourths (3/4) of the total voting interests (at a duly called meeting of the Owners at which a quorum is present) prior to engaging persons or entities for the purpose of suing, or making, preparing or investigating any lawsuit, or commencing any lawsuit other than for the following purposes:

- (a) the collection of Assessments;
- (b) the collection of other charges which Owners are obligated to pay pursuant to the Valencia Isles Documents;
- (c) the enforcement of the use and occupancy restrictions contained in the Valencia Isles Documents;
- (d) dealing with an emergency when waiting to obtain the approval of the Owners creates a substantial risk of irreparable injury to the Association Property or to Owner(s) (the imminent expiration of a statute of limitations shall not be deemed an emergency obviating the need for the requisite vote of three-fourths [3/4] of the Owners); or
- (e) filing a compulsory counterclaim.

Section 13. COMPLIANCE WITH PROVISIONS. Every person who owns, occupies or acquires any right, title, estate or interest in or to any Lot except as elsewhere herein provided does consent and agree to, and shall be conclusively deemed to have consented and agreed to, every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest in such property. Declarant shall not in any way or manner be held liable or responsible for any violation of this Declaration by any person other than Declarant.

Section 14. SECURITY. The Association may, but shall not be obligated to, maintain or support certain activities within the Property designed to make the Property safer than it otherwise might be. Additionally, NEITHER DECLARANT NOR THE ASSOCIATION MAKES ANY REPRESENTATIONS WHATSOEVER AS TO THE SECURITY OF THE PREMISES OR THE EFFECTIVENESS OF ANY MONITORING SYSTEM OR SECURITY SERVICE. ALL OWNERS AGREE TO HOLD DECLARANT AND THE ASSOCIATION HARMLESS FROM ANY LOSS OR CLAIM ARISING FROM THE OCCURRENCE OF ANY CRIME OR OTHER ACT. NEITHER THE ASSOCIATION, DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTY. NEITHER THE ASSOCIATION, DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN, IF ANY. ALL MEMBERS, OWNERS AND OCCUPANTS OF ANY LOT OR HOME, AND TENANTS, GUESTS, AND INVITEES OF ANY OWNER ACKNOWLEDGE THAT THE ASSOCIATION AND ITS BOARD, DECLARANT, AND ANY SUCCESSOR DECLARANT DO NOT REPRESENT OR WARRANT THAT: (a) ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SECURITY SYSTEM, IF ANY, DESIGNATED BY OR INSTALLED ACCORDING TO GUIDELINES ESTABLISHED BY DECLARANT OR THE COMMITTEE MAY NOT BE COMPROMISED OR CIRCUMVENTED, OR (b) THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH MEMBER, OWNER AND OCCUPANT OF ANY LOT OR HOME, AND EACH TENANT, GUEST AND INVITEE OF AN OWNER ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS BOARD AND THE COMMITTEE, DECLARANT, AND ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH MEMBER, OWNER AND OCCUPANT OF ANY LOT OR HOME, AND EACH TENANT, GUEST AND INVITEE OF ANY MEMBER OR OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO LOTS OR HOMES, AND TO THE CONTENTS OF LOTS OR HOMES AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, ITS BOARD AND THE COMMITTEE, DECLARANT, AND ANY SUCCESSOR DECLARANT HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, MEMBER, OCCUPANT, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED, IF ANY, OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTY.

Section 15. COVENANT RUNNING WITH THE LAND. All provisions of this Declaration shall, to the extent applicable and unless otherwise expressly provided herein to the contrary, be construed to be covenants running with the Lots and Homes and the Property and with every part thereof and interest therein, and all of the provisions hereof shall be binding upon and inure to the benefit of the Declarant and subsequent Owner(s) of the Homes, Lots and Property or any part thereof, or interest therein, and their respective heirs, successors, and assigns. However, the same are not intended to create nor shall they be construed as creating any rights in or for the benefit of the general public, unless specifically provided herein to the contrary. All present and future Owners, lessors, and occupants of the Lots and Homes, as applicable, shall be subject to and shall comply with the provisions of this Declaration and the Articles, Bylaws and applicable rules and regulations as they exist and may from time to time be amended. The acceptance of a deed of conveyance of a Lot, or the entering into a lease of or occupancy of a Home, shall constitute an adoption and ratification by such Owner, lessee, or occupant of the provisions of this Declaration, and the Articles, Bylaws, and applicable rules and regulations of the Association, as they may be amended from time to time. In the event that any easements granted herein shall fail for want of a grantee in being or for any other purpose, the same shall constitute and be covenants running with the land.

Section 16. NO PUBLIC RIGHT OR DEDICATION. Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any portion of the Association Property to the public, or for any public use.

Section 17. NO REPRESENTATIONS OR WARRANTIES. NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, HAVE BEEN GIVEN OR MADE BY DECLARANT OR ITS AGENTS OR EMPLOYEES IN CONNECTION WITH ANY PORTION OF THE ASSOCIATION PROPERTY, ITS PHYSICAL CONDITION, ZONING, COMPLIANCE WITH APPLICABLE LAWS, FITNESS FOR INTENDED USE, OR IN CONNECTION WITH THE SUBDIVISION, SALE, OPERATION, MAINTENANCE, COST OF MAINTENANCE, TAXES OR REGULATION THEREOF, EXCEPT AS SPECIFICALLY AND EXPRESSLY SET FORTH IN THIS DECLARATION.

Section 18. RECLAIMED WATER. Each Owner, by acceptance of a deed of conveyance to a Lot or the entering into a lease of or occupancy of a Home, acknowledges that Declarant has entered into an agreement, and may hereafter enter into an additional agreement(s), with Palm Beach County to construct reclaimed water facilities (collectively, "Reclaimed Water Development Agreement"). Palm Beach County, or its successors, has the sole and exclusive right to provide all reclaimed water facilities and services to the Property and to any property to which reclaimed water service is actually rendered by Palm Beach County. All occupants of any Home or non-residential improvement erected or located on the Property, and all subsequent or future owners or purchasers of the Property, or any portion thereof, shall exclusively receive their reclaimed water service, if any, from Palm Beach County, and shall pay for same and shall abide by the terms and intent of the Reclaimed Water Development Agreement and the Uniform Policies and Procedures Manual of the Palm Beach County Water Utilities Department ("URAP") for so long as Palm Beach County provides such services to the Property. Further, all Owners of Homes or non-residential improvement erected or located on the Property, and all subsequent or future owners or purchasers of the Property, or any portion thereof, agree by occupying any premises on the Property or by recording any deed of conveyance with respect to the Property that they will not construct or

otherwise make available or use reclaimed water service from any source other than that provided by Palm Beach County. The above shall constitute and be a covenant running with the land.

**Section 19. PUBLIC THOROUGHFARES.** In conformance with Palm Beach County requirements, Declarant hereby discloses that Valencia Isles will have a future roadway connection to Woolbright Road.

**Section 20. ASSOCIATION AND DECLARANT AS ATTORNEY-IN-FACT.** Each Owner, by reason of having acquired ownership of a Lot, whether by purchase, gift, operation of law or otherwise, and each occupant of a Home, by reason of his or her occupancy, is hereby declared to have acknowledged and agreed to his or her automatic consent to any rezoning, replatting, covenant in lieu of unity of title, change, addition or deletion made in, on or to Valencia Isles by Declarant (hereinafter, collectively, "Modifications") and, in respect thereto, each Owner of a Lot and occupant of a Home hereby designates the Association to act as agent and attorney-in-fact on behalf of such Owner or occupant to consent to any such Modification. If requested by Declarant, each Owner shall evidence his consent to a Modification in writing (provided, however, that any refusal to give such written consent shall not obviate the automatic effect of this provision). Further, each Owner, by reason of acceptance of such Owner's Lot, hereby agrees to execute, at the request of Declarant, any document and/or consent which may be required by any government agency to allow Declarant and/or its affiliates to complete the plan of development of Valencia Isles, as such plan may be hereafter amended, and each such Owner hereby further appoints Declarant as such Owner's agent and attorney-in-fact to execute, on behalf and in the name of each such Owner, any and all of such documents and/or consents. This power of attorney is irrevocable and is coupled with an interest. The provisions of this Section 19 may not be amended without Declarant's prior written consent.

**Section 21. DECLARANT'S RESERVATION OF RIGHTS.** Notwithstanding anything herein to the contrary, Declarant reserves the right to change the zoning of any portion of the Property now existing or hereafter changed to be other than single-family residential (e.g., multi-family residential or commercial) and/or to make such uses of all or any part of the Property as shall be permitted by applicable zoning regulations as they may exist from time to time. Declarant, however, is not obligated by this Declaration to cause any portion of the Property to be rezoned or developed for any such uses. In the event Declarant changes the zoning of the Property, Declarant hereby reserves the right to amend this Declaration or to create one or more sub-Declarations subjecting such property(ies) to additional or different specified or prohibited uses.

Additionally, in the event Declarant changes the zoning of the Property or any portion thereof to a use other than single-family residential and amends this Declaration or creates a sub-Declaration, in order to insure representation on the Board for various groups having dissimilar interests, Declarant reserves the right to establish voting groups for election of Directors to the Board. In such event, each voting group shall be entitled to elect one (1) or more Director(s) to the Board. Each voting group may have different voting rights as determined by Declarant.

In the event Declarant establishes other uses of the Property as aforesaid, Declarant reserves the right to change the method pursuant to which Assessments are shared among the Lots and other portions of the Property. The expenses may be divided among each type of property use (e.g., single-family residential, multi-family residential and commercial) based upon, but not necessarily proportional to, the percentage of each type of property use, the level of services received by each type of property use and other relevant factors as determined by Declarant. Additionally, expenses which

specifically relate to a specific property use will only be assessed against that type of property. The percentages for each type of property will be based upon the total acreage of the Property.

The portion of the anticipated Operating Expenses which are assessed against the single-family residential property shall be based on percentages set forth by the Declarant and shall be divided equally among the contributing Lots or units by dividing such portion of the Operating Expenses which are being assessed to the single-family residential property by the total number of contributing Lots or units.

The portion of the anticipated Operating Expenses which are assessed against the multi-family residential property shall be based on percentages set forth by the Declarant and shall be divided equally among the contributing multi-family units by dividing such portion of the Operating Expenses which are being assessed to the multi-family residential property by the total number of contributing units.

The portion of the anticipated Operating Expenses which are assessed against the commercial property shall be based on percentages set forth by the Declarant and shall be divided among the owners of the commercial property based upon a fractional formula, the numerator of which is the total square feet of buildings and paved areas of each commercial parcel and the denominator of which is the total square feet of all buildings and paved areas.

IN WITNESS WHEREOF, this Declaration has been signed by Declarant and joined in by the Association on the respective dates set forth below.

DECLARANT:

G.L. HOMES OF BOYNTON BEACH ASSOCIATES IV, LTD., a Florida limited partnership

By: G.L. HOMES OF BOYNTON BEACH IV CORPORATION, its general partner

WITNESSES AS TO DECLARANT:

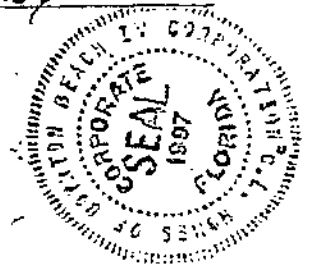
[Signature]  
Signature  
Print Name BERNETTE GRIEY

[Signature]  
Signature  
Print Name Kathleen M. Coffman

[Signature]  
Name Richard A. Costello  
Title Vice President

[Signature]  
Name ALAN FANT  
Title Assistant Secretary

(SEAL)



ASSOCIATION:

VALENCIA ISLES HOMEOWNERS ASSOCIATION, INC, a Florida corporation not for profit

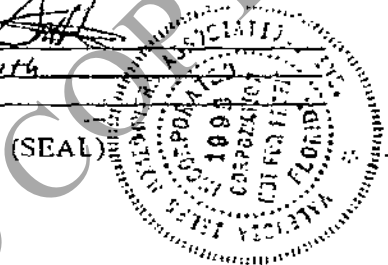
WITNESSES AS TO ASSOCIATION:

Deanna Gray  
Signature  
Print Name DEANETTE GRAY

By: [Signature]  
Name: Gary Arkin  
Title: Vice President

Kathleen M. Coffman  
Signature  
Print Name Kathleen M. Coffman

Attest: [Signature]  
Name: Barbara Smith  
Title: Secretary



STATE OF FLORIDA )  
COUNTY OF Broward ) SS

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by Richard A. Costello and Alan Fant, the Vice President and Assistant Secretary, respectively of G.L. HOMES OF BOYNTON BEACH IV CORPORATION, a Florida corporation, the general partner of G.L. HOMES OF BOYNTON BEACH ASSOCIATES IV, LTD., a Florida limited partnership, freely and voluntarily under authority duly vested in them by said corporation, and that the seal affixed thereto is the true corporate seal of said corporation. They are both Richard A. Costello is personally known to me, or has produced \_\_\_\_\_ as identification. Alan Fant is personally known to me, or has produced \_\_\_\_\_ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 23rd day of September, 1998

Kathleen M. Coffman  
Notary Public, State of Florida at Large

My Commission Expires: \_\_\_\_\_  
Typed, Printed or Stamped Name of Notary Public

Kathleen M. Coffman  
MY COMMISSION # C0615448 EXPIRES  
March 18, 2001  
BORNED THEFTON FAN INSURANCE INC

STATE OF FLORIDA )  
 ) SS  
COUNTY OF Broward )

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by Gary Arkin and Barbara Smith, the President and Secretary, respectively, of VALENCIA ISLES HOMEOWNERS ASSOCIATION, INC., a Florida corporation not for profit, freely and voluntarily under authority duly vested in them by said corporation, and that the seal affixed thereto is the true corporate seal of said corporation. Gary Arkin is personally known to me or has produced \_\_\_\_\_ as identification. Barbara Smith is personally known to me or has produced \_\_\_\_\_ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 23rd day of September, 1998

Kathleen M. Coffman  
Notary Public, State of Florida at Large

My Commission Expires \_\_\_\_\_

\_\_\_\_\_  
Typed, Printed or Stamped Name of Notary Public



Kathleen M. Coffman  
NOTARY COMMISSION # 02615448 EXPIRES  
March 18, 2001  
BONDED THROUGH FARM INSURANCE INC

NOT A CERTIFIED COPY

## DESCRIPTION:

A PARCEL OF LAND LYING WITHIN TRACTS 1 THROUGH 8, 25 THROUGH 32, 33 THROUGH 40, AND 57 THROUGH 64, INCLUSIVE, BLOCK 58, AND TRACTS 1 THROUGH 8, AND 9 THROUGH 16, INCLUSIVE, BLOCK 57, PALM BEACH FARMS PLAT NO. 3, PLAT BOOK 2, PAGE 45, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, WITH RIGHT-OF-WAY QUIT-CLAIMED PER OFFICIAL RECORD BOOK 8871, PAGE 1190, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA WITH AND LYING WITHIN IN SECTIONS 33 AND 34, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA. SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SECTION 34, TOWNSHIP 45 SOUTH, RANGE 42 EAST; THENCE SOUTH 89°25'00" EAST ALONG THE NORTH LINE OF SAID SECTION 34, A DISTANCE OF 1,138.55 FEET; THENCE SOUTH 00°10'07" EAST, A DISTANCE OF 182.74 FEET; THENCE NORTH 89°18'37" EAST, A DISTANCE OF 59.24 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE NORTH 89°18'37" EAST, A DISTANCE OF 18.57 FEET; THENCE SOUTH 89°25'00" EAST, A DISTANCE OF 305.27 FEET; THENCE SOUTH 88°06'36" EAST, A DISTANCE OF 258.36 FEET; THENCE SOUTH 88°30'34" EAST, A DISTANCE OF 28.05 FEET; THENCE SOUTH 00°11'20" EAST, A DISTANCE OF 480.39 FEET; THENCE SOUTH 89°37'40" EAST, A DISTANCE OF 334.74 FEET; THENCE SOUTH 00°11'57" EAST, A DISTANCE OF 666.36 FEET; THENCE SOUTH 89°50'20" EAST ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE AFOREMENTIONED SECTION 34, A DISTANCE OF 254.85 FEET; THENCE SOUTH 13°18'23" WEST, A DISTANCE OF 51.34 FEET; THENCE SOUTH 00°12'34" EAST, A DISTANCE OF 360.34 FEET; THENCE NORTH 89°47'26" EAST, A DISTANCE OF 12.00 FEET; THENCE SOUTH 00°12'34" EAST ALONG A 80 WEST OF AND PARALLEL WITH (AS MEASURED AT RIGHT ANGLES) THE EAST LINE OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 34, A DISTANCE OF 83.99 FEET; THENCE SOUTH 89°44'23" WEST, A DISTANCE OF 1186.34 FEET; THENCE SOUTH 28°10'48" WEST, A DISTANCE OF 40.94 FEET; THENCE SOUTH 89°44'23" WEST, A DISTANCE OF 54.55 FEET; THENCE SOUTH 00°10'51" EAST, A DISTANCE OF 100.97 FEET; THENCE SOUTH 28°10'48" WEST, A DISTANCE OF 165.82 FEET; THENCE SOUTH 89°37'43" WEST, A DISTANCE OF 1317.16 FEET; THENCE SOUTH 00°22'17" EAST, A DISTANCE OF 2.00 FEET; THENCE SOUTH 89°37'43" WEST, A DISTANCE OF 1,994.01 FEET; THENCE NORTH 00°15'55" WEST, A DISTANCE OF 489.66 FEET; THENCE SOUTH 89°44'05" WEST, A DISTANCE OF 361.99 FEET; THENCE NORTH 00°30'03" WEST, A DISTANCE OF 1374.14 FEET; THENCE NORTH 00°04'20" EAST, A DISTANCE OF 450.02 FEET; THENCE NORTH 12°59'42" EAST, A DISTANCE OF 51.42 FEET; THENCE NORTH 00°30'03" WEST, A DISTANCE OF 272.00 FEET; THENCE NORTH 89°37'43" EAST, A DISTANCE OF 1,273.43 FEET; THENCE SOUTH 00°22'17" EAST, A DISTANCE OF 6.00 FEET; THENCE NORTH 89°37'43" EAST, A DISTANCE OF 1,370.00 FEET; THENCE SOUTH 00°22'17" EAST, A DISTANCE OF 2.00 FEET; THENCE NORTH 89°37'43" EAST, A DISTANCE OF 1,380.19 FEET; THENCE NORTH 35°25'41" EAST, A DISTANCE OF 144.72 FEET TO THE POINT OF BEGINNING.

CONTAINING 297.781 ACRES MORE OR LESS  
SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD

BEARINGS BASED ON THE EAST LINE OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 45 SOUTH, RANGE 42 EAST, HAVING AN ASSUMED BEARING OF N 00°12'34" W.

EXHIBIT "B"

# State of Florida



Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of VALENCIA ISLES HOMEOWNERS ASSOCIATION, INC., a Florida corporation, filed on August 4, 1998, as shown by the records of this office.

I further certify the document was electronically received under FAX audit number N98000014411. This certificate is issued in accordance with section 15.16, Florida Statutes, and authenticated by the code noted below.

The document number of this corporation is N98000004487.

Given under my hand and the Great Seal of the State of Florida, at Tallahassee, the Capital, this the Fifth Day of August, 1998

Authentication Code: 398A00048812-080598-N98000004487-1/1

NOT A Certified COPY



CR2EQ22 (1-95)

Sandra B. Northam  
Secretary of State

BYLAWS  
OF  
VALENCIA ISLES HOMEOWNERS ASSOCIATION, INC.

Section 1. Identification of Association

These are the Bylaws of Valencia Isles Homeowners Association, Inc. ("Association") as duly adopted by its Board of Directors ("Board"). The Association is a corporation not for profit, organized pursuant to Chapter 617, Florida Statutes.

1.1. The office of the Association shall be for the present at 1401 University Drive, Suite 200, Coral Springs, Florida 33071-6039 and thereafter may be located at any place designated by the Board.

1.2. The fiscal year of the Association shall be the calendar year.

1.3. The seal of the Association shall bear the name of the Association, the word "Florida" and the words "Corporation Not For Profit."

Section 2. Explanation of Terminology

The terms defined in the Articles of Incorporation of the Association ("Articles") as well as in the Declaration of Covenants, Restrictions and Easements for Valencia Isles ("Declaration") are incorporated herein by reference and shall appear in initial capital letters each time such terms appear in these Bylaws.

Section 3. Membership; Members' Meetings; Voting and Proxies

3.1. The qualification of Members, the manner of their admission to membership in the Association, the manner of termination of such membership and the voting by Members shall be as set forth in the Articles.

3.2. The Members shall meet annually ("Annual Members' Meeting"). The Annual Members' Meeting shall be held at the office of the Association or at such other place in the County as the Board may determine and on such day and at such time as designated by the Board in the notice of such meeting commencing with the year following the year in which the Articles are filed with the Secretary of State. The purpose of the Annual Members' Meeting shall be to hear reports of the officers, elect members of the Board (when that shall be appropriate as determined by the provisions of the Articles) and transact any other business authorized to be transacted at such Annual Members' Meeting.

3.3. Special meetings (meetings other than the Annual Members' Meeting) of the Members shall be held at any place within the County whenever called by the President or Vice President or by a majority of the Board. A special meeting must be called by such President or Vice President upon receipt of a written request from Members having the right to vote at least one-third (1/3) of the total number of votes entitled to be cast by Members at any such special meeting.

3.4. Except as otherwise provided in the Articles, a written notice of each Members' meeting, whether an Annual Members' Meeting or a special meeting (collectively "Meeting"), shall be given to each Member entitled to vote thereat at his last known address as it appears on the books of the Association and shall be mailed to the said address not less than fourteen (14) days nor more than forty-five (45) days prior to the date of the Meeting. Proof of such mailing shall be given by the affidavit of the person giving the notice. Any notice given hereunder shall state the time and place of the Meeting and the purposes for which the Meeting is called. The notices of all Annual Members' Meetings shall, in addition, specify the number of Directors of the Association to be designated by Declarant and the number of Directors to be elected by the Members, if applicable. Notwithstanding any provisions hereof to the contrary, notice of any Meeting may be waived before, during or after such Meeting by a Member or by the person entitled to vote for such Member by signing a document setting forth the waiver of such notice.

3.5. The Members may, at the discretion of the Board, act by written response in lieu of a Meeting provided written notice of the matter or matters to be agreed upon is given to the Members or duly waived in accordance with the provisions of these Bylaws. Unless some greater number is required under the Valencia Isles Documents and except as to the election of Directors, which shall be accomplished by plurality vote, the decision of a majority of the votes cast by Members as to the matter or matters to be agreed or voted upon shall be binding on the Members provided a quorum is either present at such Meeting or submits a response if action is taken by written response in lieu of a Meeting, as the case may be. The notice with respect to actions to be taken by written response in lieu of a Meeting shall set forth the time period during which the written responses must be received by the Association.

3.6. (a) A quorum of the Members shall consist of Members entitled to cast thirty percent (30%) of the total number of votes of the Members. A quorum of any class of Members shall consist of Class Members of such class entitled to cast thirty percent (30%) of the total number of votes of the class. Limited "Proxies" and general "Proxies" (as hereinafter defined in Paragraph 3.10) may be used to establish a quorum.

(b) When a quorum is present at any Meeting and a question which raises the jurisdiction of such Meeting is presented, the holders of a majority of the voting rights present in person or represented by written Proxy shall be required to decide the question. However, if the question is one upon which a vote other than the majority vote of a quorum is required by express provision of the Valencia Isles Documents or by law, then such express provision shall govern and control the required vote on the decision of such question.

3.7. At any Annual Members' Meeting when elections of Directors are to occur, written ballots are to be supplied to Members for such purposes. Members may not vote for Directors by Proxy, but may vote by absentee ballot. Furthermore, at any Annual Members' Meeting at which Directors are to be elected, the "Chairman" (as hereinafter defined in Paragraph 7.2) shall appoint an "Election Committee" consisting of three (3) Members to supervise the election, count and verify ballots, disqualify votes if such disqualification is justified under the circumstances and certify the results of the election to the Board.

The Election Committee shall be able to determine questions within its jurisdiction by plurality vote of all three (3) members, but matters resulting in deadlocked votes of the Election Committee shall be referred to the entire Board for resolution.

3.8. If a quorum is not in attendance at a Meeting, the Members who are present, either in person or by Proxy, may adjourn the Meeting from time to time until a quorum is present with no further notice of such adjourned Meeting being required unless otherwise determined by the Board.

3.9. Minutes of all Meetings shall be kept in a businesslike manner and be available for inspection by the Members and Directors at all reasonable times. The Association shall retain minutes for at least seven (7) years subsequent to the date of the meeting the minutes reflect.

3.10. Voting rights of Members shall be as stated in the Articles with respect to the election of all Boards other than the First Board. Such votes may be cast in person or by absentee ballot. Proxies may be used to vote on other agenda items at meetings at which Directors are to be elected, and may also be used to establish a quorum. "Proxy" is defined to mean an instrument containing the appointment of a person who is substituted in the place and stead of the person or authorized representative of an entity entitled to vote. Proxies shall be in writing signed by the person or authorized representative of an entity giving the same and shall be valid only for the particular Meeting designated therein and, if so stated in the Proxy, any adjournments thereof, provided, however, any proxy automatically expires ninety (90) days after the date of the meeting for which it was originally given. A Proxy must be filed with the Secretary of the Association before the appointed time of the Meeting in order to be valid. Any Proxy may be revoked prior to the time a vote is cast in accordance with such Proxy.

3.11. The voting on any matter at a Meeting shall be by secret ballot upon request of the holders of ten percent (10%) of the votes represented at such Meeting and entitled to be cast on such matter, if such request is made prior to the vote in question.

#### Section 4. Board; Directors; Meetings

4.1. The business and administration of the Association shall be by its Board.

4.2. The election and, if applicable, designation of Directors shall be conducted in accordance with the Articles. Except for Declarant-appointed Directors, Directors must be Members or the parents, children or spouses of Members.

4.3. (a) Any person elected or designated as a Director shall have all the rights, privileges, duties and obligations of a Director of the Association.

(b) The term of a Director's service shall be as stated in the Articles and, if not so stated, shall extend until the next Annual Members'

Meeting and thereafter until his successor is duly elected and qualified or until he resigns or is removed in the manner elsewhere provided.

4.4. The organizational meeting of a newly elected Board shall be held within ten (10) days of its election at such place and time as shall be fixed by the Directors at the meeting at which they were elected. Provided the organizational meeting is held directly following the Annual Members' Meeting, no further notice of the organizational meeting shall be necessary; if not, however, notice of the organizational meeting shall be given in accordance with Section 617.303(2) of the Florida Statutes.

4.5. Regular meetings of the Board may be held at such times and places in the County as shall be determined from time to time by a majority of the Directors. Special meetings of the Board may be called at the discretion of the President or the Vice President. Special meetings must be called by the Secretary at the written request of at least one-third (1/3) of the Directors. Any such special meeting may be held in the County at such time and place as determined by the Directors requesting such meeting or in such other place as all of the Directors shall agree upon.

4.6. Notice of the time and place of regular and special meetings of the Board, or adjournments thereof, shall be given to each Director personally or by mail, telephone or telegraph at least three (3) days prior to the day named for such meeting unless such notice is waived before, during or after such meeting. Any Director may waive notice of the meeting in writing before, during or after a meeting and such waiver shall be deemed equivalent to the receipt of notice by such Director.

4.7. Notice of all Board meetings shall be given to the members in accordance with Section 617.301(2) of the Florida Statutes.

4.8. A quorum of the Board shall consist of the Directors entitled to cast a majority of the votes of the entire Board. Matters approved by a majority of the Directors present at a meeting at which a quorum is present shall constitute the official acts of the Board, except as may be otherwise specifically provided by law, by the articles or elsewhere herein. If at any meeting of the Board there shall be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any meeting that takes place on account of a previously adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted. In the case of the adjournment of a meeting, no further notice of the adjourned meeting need be given unless otherwise determined by the Board.

4.9. The presiding officer at all Board meetings shall be the President. In the absence of the President, the Directors shall designate any one of their number to preside.

4.10. Directors' fees, if any, shall be determined by the Members.

4.11. Minutes of all meetings of the Board shall be kept in a businesslike manner and be available for inspection by Members and Directors at all reasonable times.

4.12. The Board shall have the power to appoint an "Executive Committee(s)" of the Board consisting of not less than three (3) Directors. An Executive Committee(s) shall have and exercise such powers of the Board as may be delegated to such Executive Committee(s) by the Board.

4.13. Meetings of the Board shall be open to all Members on such terms as the Board may determine. The Board may also hold closed meetings to the extent permitted by applicable law, including, by way of example but not by way of limitation, when the discussion at a meeting is governed by attorney-client privilege. If a meeting is open, unless a Member serves as a Director or unless he has been specifically invited by the Directors to participate in the meeting, no Member shall be entitled to participate in the meeting, but shall only be entitled to act as an observer. In the event a Member not serving as a Director or not otherwise invited by the Directors to participate in a meeting attempts to become more than a mere observer at the meeting or conducts himself in a manner detrimental to the carrying on of the meeting, then any Director may expel said Member from the meeting by any reasonable means which may be necessary to accomplish said Member's expulsion. Also, any Director shall have the right to exclude from any meeting of the Board any person who is not able to provide sufficient proof that he is a Member or a duly authorized representative, agent or proxy holder of a Member, unless said person has been specifically invited by any of the Directors to participate in such meeting.

4.14. Any action required or permitted to be taken at a meeting of the Directors may be taken without a meeting if a consent in writing, specifically setting forth the action to be taken, shall be signed by all the Directors entitled to vote with respect to the subject matter thereof and such consent shall have the same force and effect as a unanimous vote of the Directors, provided, however, whenever assessments are to be considered, they may be considered only at a meeting of the Directors properly noticed in accordance with Section 617.303(2) of the Florida Statutes.

#### Section 5. Powers and Duties of the Board

5.1. All of the powers and duties of the Association shall be exercised by the Board. Such powers and duties of the Board shall include, but not be limited to, all powers and duties set forth in the Valencia Isles Documents, as well as all of the powers and duties of a director of a corporation not for profit not inconsistent therewith.

5.2. The Association may employ a manager to perform any of the duties, powers or functions of the Association. Notwithstanding the foregoing, the Association may not delegate to the manager the power to conclusively determine whether the Association should make expenditures for capital additions or improvements chargeable against the Association funds. The members of the Board shall not be personally liable for any omission or improper exercise by the manager of any duty, power or function delegated to the manager by the Association.

## Section 6. Late Fees

An Owner who fails to timely pay any Assessment shall be charged a late charge of Twenty-Five Dollars (\$25) by the Association for such late Assessment. Owners shall be responsible to pay all legal fees (including, but not limited to, attorney and paralegal fees and court costs) incurred in connection with the collection of late Assessments whether or not an action at law to collect said Assessments and foreclose the Association's lien has been commenced. The Board has authorized the following initial schedule of fees for such circumstances:

- (a) One Hundred Fifty Dollars (\$150) for a Claim of Lien plus recording costs and sending of Notice of Intention to Foreclose;
- (b) One Hundred Dollars (\$100) for a Satisfaction of Lien plus recording costs; and
- (c) Any further action would require an hourly computation of attorney and/or paralegal time spent pursuing collection of such unpaid Assessments.

## Section 7. Officers of the Association

7.1. Executive officers of the Association shall be the President, who shall be a Director, one or more Vice Presidents, a Treasurer and a Secretary, all of whom shall be elected annually by the Board. Any officer may be removed without cause from office by vote of the Directors at any meeting of the Board. The Board may from time to time, elect such other officers and assistant officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association. One person may hold any two offices simultaneously, except when the functions of such offices are incompatible, but no person shall hold the office of President and any of the following offices simultaneously: Vice President, Secretary or Assistant Secretary.

7.2. The President shall be the chief executive officer of the Association. He shall have all of the powers and duties which are usually vested in the office of the President of an association or a corporation not for profit, including, but not limited to, the power to appoint such committees from among the Members at such times as he may, in his discretion, determine appropriate to assist in the conduct of the affairs of the Association. If in attendance, the President ("Chairman") shall preside at all meetings of the Board and the Members; provided, however, that the President may appoint a substitute.

7.3. In the absence or disability of the President, a Vice President shall exercise the powers and perform the duties of the President. If there is more than one (1) Vice President, the Board shall designate which Vice President is to perform which duties. The Vice President(s) shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Board. In the event there shall be more than one Vice President elected by the Board, then they shall be designated "First," "Second," etc., and shall exercise the powers and perform the duties of the presidency in such order.

7.4. The Secretary shall keep the minutes of all meetings of the Board and the Members, which minutes shall be kept in a businesslike manner and be available for inspection by Members and Directors at all reasonable times. The Secretary shall have custody of the seal of the Association and affix the same to instruments requiring such seal when duly authorized and directed to do so. The Secretary shall be custodian for the corporate records of the Association, except those of the Treasurer, and shall perform all of the duties incident to the office of Secretary of the Association as may be required by the Board of the President. The Assistant Secretary, if any, shall perform the duties of the Secretary when the Secretary is absent and shall assist the Secretary under the supervision of the Secretary.

7.5. The Treasurer shall have custody of all of the monies of the Association including funds, securities and evidences of indebtedness. The Treasurer shall keep the assessment rolls and accounts of the Members and shall keep the books of the Association in accordance with good accounting practices and he shall perform all of the duties incident to the office of the Treasurer. The Assistant Treasurer, if any, shall perform the duties of the Treasurer when the Treasurer is absent and shall assist the Treasurer under the supervision of the Treasurer.

7.6. The compensation, if any, of the officers and other employees of the Association shall be fixed by the Board. This provision shall not preclude the Board from hiring a Director as an employee of the Association or preclude contracting with a Director or a party affiliated with a Director for the management or performance of contract services for all or any part of Valencia Isles.

#### Section 8. Resignations

Any Director or officer may resign his post at any time by written resignation, delivered to the President or Secretary, which shall take effect upon its receipt unless a later date is specified in the resignation, in which event the resignation shall be effective from such date unless withdrawn. The acceptance of a resignation shall not be required to make it effective. The conveyance of all Lots owned by any Director or officer (other than appointees of Declarant) shall constitute a written resignation of such Director or officer.

#### Section 9. Accounting Records, Fiscal Management

9.1. The Association shall use the cash basis method of accounting and shall maintain accounting records in accordance with good accounting practices, which shall be open to inspection by Members and Institutional Mortgagees or their respective authorized representatives at reasonable times. Such authorization as a representative of a Member must be in writing and signed by the person giving the authorization and dated within sixty (60) days of the date of the inspection. Such records shall include, but not be limited to: (i) a record of all receipts and expenditures; (ii) an account for each Lot within Valencia Isles which shall designate the name and address of the Owner thereof, the amount of Individual Lot Assessments and all other Assessments, if any, charged to the Lot, the amounts and due dates for payment of same, the amounts paid upon the account and the dates paid, and the balance due; (iii) any tax

returns, financial statements and financial reports of the Association; and (iv) any other records that identify, measure, record or communicate financial information.

9.2. The Board shall adopt a Budget (as defined and provided for in the Declaration) of the anticipated Operating Expenses for each forthcoming calendar year (the fiscal year of the Association being the calendar year) at a special meeting of the Board ("Budget Meeting") called for that purpose to be held during the month of November of the year preceding the year to which the Budget applies. Prior to the Budget Meeting, a proposed Budget for the Operating Expenses shall be prepared by or on behalf of the Board. Within thirty (30) days after adoption of the Budget, a copy thereof shall be furnished to each Member, upon request, and each Owner shall be given notice of the Individual Lot Assessment applicable to his Lot(s). The copy of the Budget, if requested, shall be deemed furnished and the notice of the Individual Lot Assessment shall be deemed given upon its delivery or upon its being mailed to the Owner shown on the records of the Association at his last known address as shown on the records of the Association.

9.3. In administering the finances of the Association, the following procedures shall govern: (i) the fiscal year shall be the calendar year; (ii) any monies received by the Association in any calendar year may be used by the Association to pay expenses incurred in the same calendar year; (iii) there shall be apportioned between calendar years on a pro rata basis any expenses which are prepaid in any one calendar year for Operating Expenses which cover more than such calendar year; (iv) Assessments shall be made quarterly in amounts no less than are required to provide funds in advance for payment of all of the anticipated current Operating Expenses and for all unpaid Operating Expenses previously incurred; and (v) items of Operating Expenses incurred in a calendar year shall be charged against income for the same calendar year regardless of when the bill for such expenses is received. Notwithstanding the foregoing, the Assessments for Operating Expenses and any periodic installments thereof shall be of sufficient magnitude to insure an adequacy and availability of cash to meet all budgeted expenses in any calendar year as such expenses are incurred in accordance with the cash basis method of accounting.

9.4. Individual Lot Assessments shall be payable as provided in the Declaration.

9.5. No Board shall be required to anticipate revenue from Assessments or expend funds to pay for Operating Expenses not budgeted or which shall exceed budgeted items, and no Board is required to engage in deficit spending. Should there exist any deficiency which results from there being greater Operating Expenses than monies from Assessments, then such deficits shall be carried into the next succeeding year's Budget as a deficiency or shall be the subject of a Special Assessment or an upward adjustment to the Individual Lot Assessment.

9.6. The depository of the Association shall be such bank or banks as shall be designated from time to time by the Board in which the monies of the Association shall be deposited. Withdrawal of monies from such account shall be only by checks signed by such persons as are authorized by the Board.

9.7. A report of the accounts of the Association shall be made annually by an accountant and a copy of the report shall be furnished to each Member who requests same in writing no later than the first day of April of the year following the year for which the report is made. The report shall be deemed to be furnished to the Member upon its delivery or mailing to the Member at his last known address shown on the records of the Association.

#### Section 10. Rules and Regulations

The Board may at any meeting of the Board adopt rules and regulations or amend, modify or rescind then existing rules and regulations for the operation of Valencia Isles; provided, however, that such rules and regulations are not inconsistent with the terms or provisions of the Valencia Isles Documents. Copies of any rules and regulations promulgated, amended or rescinded shall be mailed or delivered to all Members at the last known address for such Members as shown on the records of the Association at the time of such delivery or mailing and shall not take effect until forty-eight (48) hours after such delivery or mailing, or, in the event both forms of notification are used, whichever is later. Notwithstanding the foregoing, when rules and regulations are to regulate the use of a specific portion of the Association Property, same shall be conspicuously posted at such facility and such rules and regulations shall be effective immediately upon such posting. Care shall be taken to insure that posted rules and regulations are conspicuously displayed and easily readable and that posted signs or announcements are designed with a view toward protection from weather and the elements. Posted rules and regulations which are torn down or lost shall be promptly replaced.

#### Section 11. Parliamentary Rules

The then latest edition of Robert's Rules of Order shall govern the conduct of all meetings of the Members and the Board; provided, however, if such rules of order are in conflict with any of the Valencia Isles Documents, Robert's Rules of Order shall yield to the provisions of such instrument.

#### Section 12. Roster of Owners

Each Owner shall file with the Association a copy of the deed or other document showing his ownership and an age verification form in accordance with the provisions set forth in Article XI of the Declaration. The Association shall maintain such information. The Association may rely on the accuracy of such information for all purposes until notified in writing of changes therein.

#### Section 13. Amendment of the Bylaws

13.1. These Bylaws may be amended as hereinafter set forth in this Section 13.

13.2. After the Turnover Date, any Bylaw of the Association may be amended or repealed, and any new Bylaw of the Association may be adopted by either:

(i) a majority vote of the Members at any Annual Members' Meeting or any special meeting of the Members called for that purpose or by majority action of the Members who have acted by written response in lieu of a Meeting as permitted by these Bylaws; or

(ii) by the affirmative vote of a majority of the Directors then in office at any regular meeting of the Board or at any special meeting of the Board called for that purpose or by written instrument signed by all of the Directors as is permitted by these Bylaws, provided that the Directors shall not have any authority to adopt, amend or repeal any Bylaw if such new Bylaw or such amendment or the repeal of a Bylaw would be inconsistent with any Bylaw previously adopted by the Members.

13.3. Notwithstanding any of the foregoing provisions of this Section 13 to the contrary, until the Turnover Date, all amendments or modifications to these Bylaws and adoption or repeal of Bylaws shall only be made by action of the First Board as described in the Articles, which First Board shall have the power to amend, modify, adopt and repeal any Bylaws without the requirement of any consent, approval or vote of the Members.

13.4. Notwithstanding the foregoing provisions of this Section 13, there shall be no amendment to these Bylaws which shall abridge, amend or alter the rights of: (i) Declarant, without the prior written consent thereto by Declarant for so long as Declarant holds title to at least one (1) Lot; or (ii) any Institutional Mortgagee without the prior written consent of such Institutional Mortgagee.

13.5. Any instrument amending, modifying, repealing or adding Bylaws shall identify the particular section or sections affected and give the exact language of such modification, amendment or addition or of the provisions repealed. A copy of each such amendment, modification, repeal or addition attested to by the Secretary or Assistant Secretary of the Association shall be recorded amongst the Public Records of the County.

#### Section 14. Interpretation

In the case of any conflict between the Articles and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control; and in the event of any conflict between the Articles and the Declaration, the Declaration shall control.

VALENCIA ISLES HOMEOWNERS ASSOCIATION,  
INC.

By: *Chris Fowler* President  
Attest: *Sharon Smith* Secretary

(SEAL)

ROBERT L. KAYE, B.C.S.\*  
MICHAEL S. BENDER, B.C.S.\*  
JEFFREY A. REMBAUM, B.C.S.\*  
DEBORAH S. SUGARMAN  
ANDREW B. BLACK, B.C.S.\*  
PETER C. MOLLENGARDEN, B.C.S.\*  
GERARD S. COLLINS  
JEFFREY D. GREEN, B.C.S.\*\*  
EMILY E. GANNON  
DANIELLE M. BRENNAN, B.C.S.\*  
KERSTIN HENZE  
ALAN SCHWARTZSEID, B.C.S.\*  
LAUREN T. SCHWARZFELD  
JAY S. LEVIN  
STUART M. SMITH  
BENJAMIN L. HEYDLAUFF  
JOSEPH C. STAYANOFF  
ZACHARY S. MORSE  
DAVID H. HALPERN  
LISA A. MAGILL, B.C.S.\*, OF COUNSEL  
KARINA N. SKEIE, OF COUNSEL

**KBR** Kaye Bender  
Rembaum, P.L.  
Attorneys At Law

MAIN OFFICE:  
1200 PARK CENTRAL BLVD SOUTH  
POMPAHO BEACH, FL 33064  
TEL. (954) 928-0680  
FAX (954) 772-0319  
(800) 974-0680

WITH ADDITIONAL OFFICES IN:  
PALM BEACH GARDENS  
ORLANDO  
TAMPA  
MIAMI

\*BOARD CERTIFIED SPECIALIST IN  
CONDOMINIUM AND PLANNED  
DEVELOPMENT LAW

\*\*BOARD CERTIFIED SPECIALIST IN  
CONSTRUCTION LAW

*KBRLegal.Com*

July 29, 2024

**Sent Via Certified Mail # 9489009000276333754609**  
**RETURN RECEIPT REQUESTED**  
**and First Class U.S. Mail**  
Richard Dorr  
6511 Malta Drive  
Boynton Beach, FL 33437

**Sent Via Certified Mail # 9489009000276333754616**  
**RETURN RECEIPT REQUESTED**  
**and First Class U.S. Mail**  
Maria Arellano and  
6511 Malta Drive  
Boynton Beach, FL 33437

**Sent Via Certified Mail # 9489009000276333754624**  
**RETURN RECEIPT REQUESTED**  
**and First Class U.S. Mail**  
Johanna Fonseca  
6511 Malta Drive  
Boynton Beach, FL 33437

**RE: Valencia Isles Homeowners Association, Inc./ Pre-Suit Mediation Demand Letter**  
**Property Address: 6511 Malta Drive, Boynton Beach, FL 33437**

Dear Mr. Dorr, Ms. Arellano and Ms. Fonseca:

As you are aware from our prior correspondence, Kaye Bender Rembaum, P.L. represents Valencia Isles Homeowners Association, Inc. ("Valencia Isles") within which you are a member by virtue of your ownership of 6511 Malta Drive, Boynton Beach, FL 33437 ("The Lot"). Pursuant to Section 720.311, Florida Statutes, the following is a statutory offer to participate in pre-suit mediation in an attempt to resolve the ongoing dispute regarding your failure to comply with the governing documents of Valencia Isles.

**STATUTORY OFFER TO PARTICIPATE IN PRE-SUIT MEDIATION**

The alleged aggrieved party, Valencia Isles Homeowners Association, Inc., hereby demands that you, Richard Dorr, Maria Arellano and Johanna Fonseca, engage in mandatory pre-suit mediation in connection with the following disputes, which by statute are of a type that are subject to pre-suit mediation:



1. Failing to comply with the governing documents of Valencia Isles by having a child under the age of nineteen (19) years at the residence for more than three (3) weeks.

The violation described above constitutes your failure to abide by the governing documents of Valencia Isles. You have failed and/or refused to rectify these violations despite written communication from Valencia Isles, demanding your compliance. A copy of the notice for compliance previously sent to you is enclosed herewith for your reference as Exhibit "A".

Pursuant to Section 720.311, Florida Statutes, this demand to resolve the dispute through pre-suit mediation is required before a lawsuit can be filed concerning the dispute. Pursuant to the statute, the parties are required to engage in pre-suit mediation with a neutral third-party mediator in order to attempt to resolve this dispute without court action, and the aggrieved party demands that you likewise agree to this process. If you fail to participate in the mediation process, suit may be brought against you without further warning.

The process of mediation involves a supervised negotiation process in which a trained, neutral third-party mediator meets with both parties and assists them in exploring possible opportunities for resolving part or all of the dispute. By agreeing to participate in pre-suit mediation, you are not bound in any way to change your position. Furthermore, the mediator has no authority to make any decisions in this matter or to determine who is right or wrong and merely acts as facilitator to ensure that each party understands the position of the other party and that all options for reasonable settlement are fully explored.

If an agreement is reached, it shall be reduced to writing and becomes a binding and enforceable commitment of the parties. A resolution of one or more disputes in this fashion avoids the need to litigate these issues in court. The failure to reach an agreement, or the failure of a party to participate in the process, results in the mediator declaring an impasse in the mediation, after which the aggrieved party may proceed to court on all outstanding, unsettled disputes. If you have failed or refused to participate in the entire mediation process, you will not be entitled to recover attorney's fees, even if you prevail.

The aggrieved party has selected and hereby lists five certified mediators who we believe to be neutral and qualified to mediate the dispute. You have the right to select any one of these mediators. The fact that one party may be familiar with one or more of the listed mediators does not mean that the mediator cannot act as a neutral and impartial facilitator. Any mediator who cannot act in this capacity is required ethically to decline to accept engagement. The mediators that we suggest, and their current hourly rates, are as follows:

1. W. Jay Hunston, Jr. Esquire, hourly rate \$400.00 (4 hour minimum)  
P.O. Box 508  
Stuart, FL 34995  
(772) 223-5503
2. Joseph Huss, Esquire, hourly rate \$425.00  
Krinzman Huss Lubestky Feldman & Hotte

110 S.E. 6<sup>th</sup> Street, Suite 1430  
Fort Lauderdale, FL 33301  
(954) 761-3454

3. Judge Gary R. Cowart, hourly rate \$375.00 per hour  
Post Office Box 450547  
Sunrise, FL 33345  
(954) 319-4873  
garyrcowart@gmail.com
4. Judge Peter Blanc, hourly rate \$550.00 per hour for two party mediations, \$600 per hour for three party mediations and \$650 per hour for four party mediations. The minimum mediation fee is 2.5 hours  
PO Box 2256  
West Palm Beach, FL, 33402  
(561) 627-3612  
peter@blancmediation.com
5. Jill Nexon Berman, \$250 per party per hour with a 2-hour minimum. 3-4 parties, \$200 per party per hour  
305-493-8645  
[jill@bermanmediations.com](mailto:jill@bermanmediations.com)

You may contact the offices of these mediators to confirm that the listed mediators will be neutral and will not show any favoritism toward either party. The Florida Supreme Court can provide you a list of certified mediators.

Unless otherwise agreed by the parties, Section 720.311(2)(b), Florida Statutes, requires that the parties share the costs of pre-suit mediation equally, including the fee charges by the mediator. An average mediation may require three to four hours of the mediator's time, including some preparation time, and the parties would need to share equally the mediator's fees as well as their own attorney's fees if they choose to employ an attorney in connection with the mediation. However, use of an attorney is not required and is at the option of each party. The mediators may require the advance payment of some or all of the anticipated fees. The aggrieved party hereby agrees to pay or prepay one-half of the mediator's estimated fees and to forward this amount or such other reasonable advance deposits as the mediator requires for this purpose. Any funds deposited will be returned to you if these are in excess of your share of the fees incurred.

To begin your participation in pre-suit mediation to try to resolve the dispute and avoid further legal action, please sign below and clearly indicate which mediator is acceptable to you. We will then ask the mediator to schedule a mutually convenient time and place for the mediation conference to be held. The mediation conference must be held within ninety (90) days of this date, unless extended by mutual written agreement. In the event that you fail to respond within twenty (20) days from the date of this letter, or if you fail to agree to at least one of the mediators that we have suggested or to pay or prepay to the mediator one-half of the costs involved, the aggrieved party will be authorized to proceed with the filing of a lawsuit against you without further notice and may seek an award of attorney's fees or costs incurred in attempting to obtain mediation.

KAYE BENDER REMBAUM, P.L.

Therefore, please give this matter your immediate attention. By law, your response must be mailed by certified mail, return receipt requested, and by first-class mail to the address shown on this demand.

**RESPONDING PARTY: YOUR SIGNATURE INDICATES YOUR  
AGREEMENT TO THAT CHOICE**

**AGREEMENT TO MEDIATE**

The undersigned hereby agrees to participate in pre-suit mediation and agrees to attend a mediation conducted by the following mediator or mediators who are listed above as someone who would be acceptable to mediate this dispute:

*List acceptable mediators:*

\_\_\_\_\_  
\_\_\_\_\_

I further agree to pay or prepay one-half of the mediator's fees and to forward such advance deposits as the mediator may require for this purpose.

\_\_\_\_\_  
(Name of person signing)

\_\_\_\_\_  
Telephone contact information

PLEASE BE GOVERNED ACCORDINGLY.

Very truly yours,

GERARD S. COLLINS, ESQ.

GSC/hk  
Enclosure – First Notice of Deficiency (dated February 29, 2024)

cc: Board of Directors (Valencia Isles Homeowners Association, Inc.)

Valencia Isles Homeowners Association, Inc.

c/o Castle Management, LLC.

11200 Valencia Isles Blvd

Boynton Beach, FL. 33437

Tel: (561) 369-4747

February 29, 2024

VI5MAL 6511 04

Richard Dorr & Maria Arellano

6511 Malta Drive

Boynton Beach FL 33437

**RE: First Notice of Deficiency - 6511 Malta Drive**

Dear Resident:

The VIHOA Rules & Regulations are designed and have been established for the benefit of all Homeowners. They are important to keep our community safe as well as to maintain the attractiveness and value of our homes.

Occasionally a homeowner may not be aware of a condition or a problem with their home and/or property that is in violation of our Rules & Regulations. The purpose of this letter is to make you aware of the condition or problem and to give you the opportunity to take the appropriate action to address it.

**Residents are not allowed to have children under the age of 19 at their residence for more than three weeks. The rules and regulations clearly state that "No Homeowner may lease a home unless at least one (1) of the intended tenants is fifty-five (55) years of age or older, and no intended tenant Resident is under the age of nineteen (19) at the time of the occupancy."**

We ask that you change the living arrangements of the mentioned child by within 30 days of the date of this letter and advise the office of the action you have taken. If you feel that the situation merits additional time or that you need assistance, please contact the Covenants Coordinator at (561) 369-4747 or through email at [Covenants@valenciaisleshoa.com](mailto:Covenants@valenciaisleshoa.com).

Thank you for your cooperation and helping to maintain our community.

Respectfully,

Board of Directors

VI Homeowners Association, inc.